(c) "Obscene matter or an obscene performance" means matter described in 1984 PA 343, MCL 752.361 to 752.374.

This act is ordered to take immediate effect.
Approved April 7, 2008.
Filed with Secretary of State April 8, 2008.

[No. 84]

(HB 5855)

AN ACT to authorize local units of government to provide free use of local government property for film production.

The People of the State of Michigan enact:

123.1191 Short title.

Sec. 1. This act shall be known and may be cited as the "local government filming location access act".

123.1193 Definitions.

Sec. 3. As used in this act:

(a) "Film" means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or videotape, including, but not limited to, a motion picture, documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

(b) "Local unit of government" means a political subdivision of this state, including, but not limited to, a county, city, village, township, district, local authority, intergovernmental authority, or intergovernmental entity.

(c) "Michigan film office" or "film office" means the office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(d) "Obscene matter or an obscene performance" means matter described in 1984 PA 343, MCL 752.361 to 752.374.

123.1195 Use of property for production of film; authorization by local unit of government; exception; cooperation with Michigan film office.

Sec. 5. (1) Except as provided under subsection (2), a local unit of government may authorize a person engaged in the production of a film in this state to use, without charge, property owned by or under the control of the local unit of government for the purpose of producing a film under the terms and conditions established by the local unit of government. The economic and other benefits to the local unit of government and this state of film production located in the local unit of government or this state shall be considered the value received by the local unit of government and this state in exchange for the use of the property owned by or occupied by the local unit of government under this act.

(2) A local unit of government shall not authorize the use of property owned by or under the control of the local unit of government for the production of a film that includes obscene matter or an obscene performance or that requires that individually identifiable records be created and maintained for every performer as provided in 18 USC 2257.

(3) A local unit of government shall cooperate with the Michigan film office by providing the film office with information about potential film locations within the local unit of government and the use of property owned by or under the control of the local unit of government.

This act is ordered to take immediate effect.
Approved April 7, 2008.
Filed with Secretary of State April 8, 2008.

[No. 85]

(SB 1183)

AN ACT to amend 2001 PA 63, entitled "An act to create a department of history, arts, and libraries; to provide for its administration; and to provide for its powers, duties, functions, and responsibilities," by amending section 2 (MCL 399.702), as amended by 2002 PA 508.

The People of the State of Michigan enact:

399.702 Definitions.

Sec. 2. As used in this act:

(a) "Council" means the Michigan council for arts and cultural affairs established by Executive Order No. 1991-21.

(b) "Department" means the department of history, arts, and libraries created in section 3.

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

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

(e) "Type II transfer" means that term as it is defined in section 3 of the executive organization act of 1965, 1965 PA 380, MCL 16.103.

Effective date.

Enacting section 1. This amendatory act takes effect May 4, 2008.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1177 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 7, 2008.
Filed with Secretary of State April 8, 2008.

Compiler's note: Senate Bill No. 1177, referred to in enacting section 2, was filed with the Secretary of State April 8, 2008, and became 2008 PA 75, Eff. May 4, 2008.

[No. 86]

(SB 1173)

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," (MCL 208.1101 to 208.1601) by adding section 457.

The People of the State of Michigan enact:

208.1457 Qualified film and digital media infrastructure project; tax credit.

Sec. 457. (1) Until September 30, 2015, the Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with a taxpayer providing the taxpayer with a credit against the tax imposed by this act for an investment in a qualified film and digital media infrastructure project, as provided under this section. To qualify for the credit under this section, a taxpayer shall meet all of the following requirements:

(a) Before January 1, 2009, invest and expend at least $100,000.00 for a qualified film and digital media infrastructure project in this state; after December 31, 2008, invest and expend at least $250,000.00 for a qualified film and digital media infrastructure project in this state.

(b) Enter into an agreement as provided in this section.

(c) Receive an investment expenditure certificate from the office under subsection (5).

(d) Submit the investment expenditure certificate issued by the office under subsection (5) to the department under subsection (7).

(e) Shall not be delinquent in a tax or other obligation owed to this state or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to this state.

(2) For investment expenditures made by a taxpayer for all qualified film and digital media infrastructure projects in this state, an agreement under this section may provide for the taxpayer to claim a tax credit equal to 25% of the taxpayer's base investment. The credit under this section shall be reduced by any credit claimed by the taxpayer under section 437 for the same base investment. No more than $20,000,000.00 in total credits under this section shall be authorized in a tax year. If all or a portion of a qualified film and digital media infrastructure project is a facility that may be used for purposes unrelated to production or postproduction activities, then the project is eligible for the credit only if the department determines that the facility will support and be necessary to secure production or postproduction activity for the production and postproduction facility and the taxpayer agrees to both of the following:

(a) The facility will be used as a state of the art production or postproduction facility or as support and component of the facility for the useful life of the facility.

(b) A credit will not be claimed under this section until the facility is complete.

(3) A taxpayer seeking a credit under this section may submit an application to enter into an agreement under this section to the Michigan film office. The application shall be submitted in a form prescribed by the Michigan film office and shall be accompanied by a $100.00

application fee and all of the information and records requested by the office. An application fee received by the office under this subsection shall be deposited in the Michigan film promotion fund. The office shall not process the application until it is complete. If the office, with the concurrence of the state treasurer, determines to enter into an agreement under this section, the agreement shall provide for all of the following:

(a) A requirement that construction on the qualified film and digital media infrastructure project commence within 180 days of the date of the agreement or else the agreement shall expire. However, upon request submitted by the taxpayer based on good cause, the office may extend the period for commencement of work for up to an additional 90 days.

(b) A unique number assigned to the qualified film and digital media infrastructure project.

(c) A detailed description of the qualified film and digital media infrastructure project.

(d) A detailed business plan and market analysis for the qualified film and digital media infrastructure project.

(e) A projected budget for the qualified film and digital media infrastructure project.

(f) Estimated start date and completion date for the qualified film and digital media infrastructure project.

(g) A requirement that the taxpayer not file a claim for the credit under this section until at least 25% of the base investment in the qualified film and digital media infrastructure project identified in the agreement has been expended.

(h) A requirement that the taxpayer provide the office with the information and independent certification the office and the department deem necessary to verify investment expenditures and eligibility for the credit under this section.

(i) A requirement that if the cost of tangible assets described in subsection (11)(a) was paid or accrued in a tax year beginning after December 31, 2007, the taxpayer shall repay an amount equal to 25% of the gross proceeds or benefit derived from the sale or other disposition of the tangible assets minus the gain, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3, and plus the loss, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3 from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the business income tax base in section 201.

(4) In determining whether to enter into an agreement under this section, the Michigan film office and the state treasurer shall consider all of the following:

(a) The potential that in the absence of the credit the qualified film and digital media infrastructure project will be constructed in a location other than this state.

(b) The extent to which the qualified film and digital media infrastructure project may have the effect of promoting economic development or job creation in this state.

(c) The extent to which the credit will attract private investment for the production of motion pictures, videos, television programs, and digital media in this state.

(d) The extent to which the credit will encourage the development of film, video, television, and digital media production and postproduction facilities in this state.

(5) If the Michigan film office determines that a taxpayer has complied with the terms of an agreement entered into under this section, the office shall issue an investment expenditure certificate to the taxpayer. The taxpayer shall submit a request to the office for an investment expenditure certificate on a form prescribed by the office, along with any information or independent certification the office or the department deems necessary. The office shall process each request within 60 days after the request is complete. However, the office

may request additional information or independent certification before issuing an investment expenditure certificate and need not issue the investment expenditure certificate until satisfied that investment expenditures and eligibility are adequately established. The additional information requested may include a report of expenditures audited and certified by an independent certified public accountant. Each investment expenditure certificate shall be signed by the Michigan film commissioner and shall include the following information:

(a) The name of the taxpayer.

(b) A description of the qualified film and digital media infrastructure project.

(c) The taxpayer's eligible investment expenditures for the qualified film and digital media infrastructure project.

(d) The unique number assigned to the qualified film and digital media infrastructure project by the office under subsection (3).

(e) The taxpayer's federal employer identification number or Michigan treasury number.

(f) Any independent certification required by the department or the Michigan film office.

(6) Information, records, or other data received, prepared, used, or retained by the Michigan film office under this section that are submitted by an eligible production company and considered by the taxpayer and acknowledged by the office as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information, records, or other data shall only be considered confidential to the extent that the information or records describe the commercial and financial operations or intellectual property of the company, the information or records have not been publicly disseminated at any time, and disclosure of the information or records may put the company at a competitive disadvantage.

(7) To claim a credit under this section, a taxpayer shall submit an investment expenditure certificate issued under subsection (5) to the department. If the credit allowed under this section exceeds the amount of taxes owed by the taxpayer under this act for a tax year, that portion of the credit that exceeds the tax liability of the taxpayer for the tax year shall not be refunded but may be carried forward to offset tax liability under this act in subsequent tax years for a period not to exceed 10 tax years or until used up, whichever occurs first.

(8) The credit under this section shall be claimed after all other credits under this act. A taxpayer eligible to claim a credit under this section may assign all or a portion of a credit under this section to any assignee. An assignee may subsequently assign a credit or any portion of a credit assigned under this subsection to 1 or more assignees. A taxpayer may claim a portion of a credit and assign the remaining credit amount. A credit assignment under this subsection is irrevocable. The credit assignment under this subsection shall be made on a form prescribed by the department. A taxpayer claiming a credit under this section shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made and shall attach a copy of the form to the return on which the credit is claimed.

(9) The amount of the credit under this section shall be reduced by a credit application and redemption fee equal to 0.5% of the credit claimed, which shall be deducted from the credit otherwise payable to the taxpayer claiming the credit and be deposited by the department in the Michigan film promotion fund.

(10) A taxpayer that willfully submits information under this section that the taxpayer knows to be fraudulent or false shall, in addition to any other penalties provided by law, be liable for a civil penalty equal to the amount of the taxpayer's credit under this section. A penalty collected under this section shall be deposited in the Michigan film production promotion fund.

(11) As used in this section:

(a) "Base investment" means the cost, including fabrication and installation, paid or accrued in the taxable year of tangible assets of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes, provided that the assets are physically located in this state for use in a business activity in this state and are not mobile tangible assets expended by a person in the development of a qualified film and digital media infrastructure project. Base investment does not include a direct production expenditure or qualified personnel expenditure eligible for a credit under section 455.

(b) "Michigan film office" or "office" means the Michigan film office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(c) "Michigan film promotion fund" means the fund created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(d) "Qualified film and digital media infrastructure project" means a film, video, television, or digital media production and postproduction facility located in this state, movable and immovable property and equipment related to the facility, and any other facility that is a necessary component of the primary facility. A qualified film and digital media infrastructure project does not include a movie theater or other commercial exhibition facility, a facility used to produce obscene matter or an obscene performance as described in 1984 PA 343, MCL 752.361 to 752.374, or a facility used for a production for which records are required to be maintained with respect to any performer in the production under 18 USC 2257.

This act is ordered to take immediate effect.
Approved April 7, 2008.
Filed with Secretary of State April 8, 2008.

[No. 87]

(SB 1174)

AN ACT to amend 1995 PA 24, entitled "An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers," by amending section 3 (MCL 207.803), as amended by 2007 PA 62.

The People of the State of Michigan enact:

207.803 Definitions.

Sec. 3. As used in this act:

(a) "Affiliated business" means a business that is 100% owned and controlled by an associated business.

(b) "Associated business" means a business that owns at least 50% of and controls, directly or indirectly, an authorized business.

(c) "Authorized business" means 1 of the following:

(*i*) A single eligible business with a unique federal employer identification number that has met the requirements of section 8 and with which the authority has entered into a written agreement for a tax credit under section 9.

(*ii*) A single eligible business with a unique federal employer identification number that has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs if qualified new jobs are created or retained jobs are maintained by an associated or affiliated business.

(*iii*) A single eligible business with a unique federal employer identification number that has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs if qualified new jobs are created or retained jobs are maintained by a subsidiary business that withholds income and social security taxes, or an employee leasing company or professional employer organization that has entered into a contractual service agreement with the authorized business in which the employee leasing company or professional employer organization withholds income and social security taxes on behalf of the authorized business.

(d) "Authority" means the Michigan economic growth authority created under section 4.

(e) "Business" means proprietorship, joint venture, partnership, limited liability partnership, trust, business trust, syndicate, association, joint stock company, corporation, cooperative, limited liability company, or any other organization.

(f) "Distressed business" means a business that meets all of the following as verified by the Michigan economic growth authority:

(*i*) Four years immediately preceding the application to the authority under this act, the business had 150 or more full-time jobs in this state.

(*ii*) Within the immediately preceding 4 years, there has been a reduction of not less than 30% of the number of full-time jobs in this state during any consecutive 3-year period. The highest number of full-time jobs within the consecutive 3-year period shall be used in order to determine the percentage reduction of full-time jobs in this subparagraph.

(*iii*) Is not a seasonal employer as defined in section 27 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.27.

(g) "Eligible business" means a distressed business or business that proposes to maintain retained jobs after December 31, 1999 or to create qualified new jobs in this state after April 18, 1995 in manufacturing, mining, research and development, wholesale and trade, film and digital media production, or office operations or a business that is a qualified high-technology business. An eligible business does not include retail establishments, professional sports stadiums, or that portion of an eligible business used exclusively for retail sales. Professional sports stadium does not include a sports stadium in existence on June 6, 2000 that is not used by a professional sports team on the date that an application related to that professional sports stadium is filed under section 8.

(h) "Facility" means a site or sites within this state in which an authorized business or subsidiary business maintains retained jobs or creates qualified new jobs.

(i) "Film and digital media production" means the development, preproduction, production, postproduction, and distribution of single media or multimedia entertainment content for distribution or exhibition to the general public in 2 or more states by any means and media in any digital media format, film, or video tape, including, but not limited to, a motion

picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website. Film and digital media production also includes the development, preproduction, production, postproduction, and distribution of a trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in a film or digital media production. Film or digital media production does not include the production of any of the following:

(*i*) A production for which records are required to be maintained with respect to any performer in the production under 18 USC 2257.

(*ii*) A production that includes obscene matter or an obscene performance as described in 1984 PA 343, MCL 752.361 to 752.374.

(*iii*) A production that primarily consists of televised news or current events.

(*iv*) A production that primarily consists of a live sporting event.

(*v*) A production that primarily consists of political advertising.

(*vi*) A radio program.

(*vii*) A weather show.

(*viii*) A financial market report.

(*ix*) A talk show.

(*x*) A game show.

(*xi*) A production that primarily markets a product or service.

(*xii*) An awards show or other gala event production.

(*xiii*) A production with the primary purpose of fund-raising.

(*xiv*) A production that primarily is for employee training or in-house corporate advertising or other similar production.

(j) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(*i*) An authorized business.

(*ii*) An employee leasing company.

(*iii*) A professional employer organization on behalf of the authorized business.

(*iv*) Another person as provided in section 8(1)(c).

(*v*) A business that sells all or part of its assets to an eligible business that receives a credit under section 8(1) or (5).

(k) "Local governmental unit" means a county, city, village, or township in this state.

(*l*) "High-technology activity" means 1 or more of the following:

(*i*) Advanced computing, which is any technology used in the design and development of any of the following:

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

(D) Film and digital media production.

(*ii*) Advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology.

(*iii*) Biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product, improve plants or animals, or develop microorganisms for useful purposes. Biotechnology does not include human cloning as defined in section 16274 of the public health code, 1978 PA 368, MCL 333.16274, or stem cell research with embryonic tissue.

(*iv*) Electronic device technology, which is any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices.

(*v*) Engineering or laboratory testing related to the development of a product.

(*vi*) Technology that assists in the assessment or prevention of threats or damage to human health or the environment, including, but not limited to, environmental cleanup technology, pollution prevention technology, or development of alternative energy sources.

(*vii*) Medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated.

(*viii*) Product research and development.

(*ix*) Advanced vehicles technology, which is any technology that involves electric vehicles, hybrid vehicles, or alternative fuel vehicles, or components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles. For purposes of this act:

(A) "Electric vehicle" means a road vehicle that draws propulsion energy only from an on-board source of electrical energy.

(B) "Hybrid vehicle" means a road vehicle that can draw propulsion energy from both a consumable fuel and a rechargeable energy storage system.

(*x*) Tool and die manufacturing.

(*xi*) Competitive edge technology as defined in section 88a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a.

(m) "New capital investment" means 1 or more of the following:

(*i*) New construction. As used in this subparagraph:

(A) "New construction" means property not in existence on the date the authorized business enters into a written agreement with the authority and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to section 27(2)(a) to (o) of the general property tax act, 1893 PA 206, MCL 211.27.

(B) "Replacement construction" means that term as defined in section 34d(1)(b)(*v*) of the general property tax act, 1893 PA 206, MCL 211.34d.

(*ii*) The purchase of new personal property. As used in this subparagraph, "new personal property" means personal property that is not subject to or that is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, on the date the authorized business enters into a written agreement with the authority.

(n) "Qualified high-technology business" means a business or facility that is either of the following:

(*i*) A business with not less than 25% of the total operating expenses of the business used for research and development in the tax year in which the business files an application under this act as determined under generally accepted accounting principles and verified by the authority.

(*ii*) A business or facility whose primary business activity is high-technology activity.

(o) "Qualified new job" means 1 of the following:

(*i*) A full-time job created by an authorized business at a facility that is in excess of the number of full-time jobs the authorized business maintained in this state prior to the expansion or location, as determined by the authority.

(*ii*) For jobs created after July 1, 2000, a full-time job at a facility created by an eligible business that is in excess of the number of full-time jobs maintained by that eligible business in this state up to 120 days before the eligible business became an authorized business, as determined by the authority.

(*iii*) For a distressed business, a full-time job at a facility that is in excess of the number of full-time jobs maintained by that eligible business in this state on the date the eligible business became an authorized business.

(p) "Retained jobs" means the number of full-time jobs at a facility of an authorized business maintained in this state on a specific date as that date and number of jobs is determined by the authority.

(q) "Rural business" means an eligible business located in a county with a population of 90,000 or less.

(r) "Subsidiary business" means a business that is directly or indirectly controlled or at least 80% owned by an authorized business.

(s) "Written agreement" means a written agreement made pursuant to section 8. A written agreement may address new jobs, qualified new jobs, full-time jobs, retained jobs, or any combination of new jobs, qualified new jobs, full-time jobs, or retained jobs.

This act is ordered to take immediate effect.
Approved April 7, 2008.
Filed with Secretary of State April 8, 2008.

[No. 88]

(HB 5858)

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," (MCL 208.1101 to 208.1601) by adding section 431c.

The People of the State of Michigan enact:

208.1431c Designation as anchor company; tax credit; issuance of certificate by Michigan economic growth authority; contents; failure to meet requirements or conditions; disposition of excess credit; definitions.

Sec. 431c. (1) Except as otherwise provided under this section, a qualified taxpayer may claim a credit against the tax imposed by this act equal to the sum of up to 5.0% of the taxable value of each qualified supplier's or customer's taxable property that is located within the 10-mile radius of the qualified taxpayer and that is subject to collection of general ad valorem taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, for a

period of up to 5 years, as determined by the Michigan economic growth authority. If a qualified supplier's or customer's taxable property is subject to the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572, the qualified taxpayer may only include up to 2.5% of the taxable value of that property in the calculation of the amount of the credit allowed under this section. The Michigan economic growth authority shall not designate more than 5 taxpayers as an anchor company in each calendar year and shall not approve more than 5 new credits in each calendar year under this subsection. A taxpayer has 5 years from the date on which the taxpayer is designated as an anchor company to seek certification as a qualified taxpayer for each qualified supplier or customer for which a credit is sought under this section.

(2) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the qualified taxpayer. However, a credit shall not be provided for a tax year prior to the tax year during which the certification is issued. The qualified taxpayer shall attach the certificate to the annual return filed under this act on which the credit under this section is claimed. The certificate required by this subsection shall state all of the following:

(a) The taxpayer is a qualified taxpayer and the date on which the taxpayer was designated as an anchor company.

(b) The amount of the credit under this section for the taxpayer for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan department of treasury number assigned to the taxpayer.

(3) A qualified taxpayer that claims a credit under this section and subsequently fails to meet the requirements of this section or any other conditions established by the Michigan economic growth authority in order to obtain a certificate for which the credit was claimed under this section may, as to be determined by the Michigan economic growth authority, have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the qualified taxpayer in the year that the qualified taxpayer fails to comply with this section or the agreement.

(4) If the credit allowed under this subsection exceeds the liability of the qualified taxpayer for the tax year, the qualified taxpayer may elect to have that portion that exceeds the tax liability of the qualified taxpayer refunded or to have the excess carried forward to offset tax liability in subsequent years for 5 years or until it is used up, whichever occurs first.

(5) As used in this section:

(a) "Anchor company" means a qualified high-technology business that is an integral part of a high-technology activity and that has the ability or potential ability to influence business decisions and site location of qualified suppliers and customers.

(b) "Business", "qualified high-technology activity", and "qualified high-technology business" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(*i*) A qualified supplier or customer.

(*ii*) An employee leasing company on behalf of a qualified supplier or customer.

(*iii*) A professional employer organization on behalf of a qualified supplier or customer.

(d) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(e) "Qualified new job" means a full-time job created by a qualified supplier or customer at a facility or facilities that is in excess of the number of full-time jobs a qualified supplier or customer maintained in this state or facility prior to the expansion or location, as determined by the authority.

(f) "Qualified supplier or customer" means a business that opens a new location in this state, a business that locates in this state, or an existing business located in this state that expands its business within the last year as a result of an anchor company and satisfies, as certified by the Michigan economic growth authority, each of the following:

(*i*) Has financial transactions with the anchor company.

(*ii*) Sells a critical or unique component or technology necessary for the anchor company to market a finished product or buys a critical or unique component from the anchor company.

(*iii*) Has created more than 10 qualified new jobs.

(*iv*) Has made an investment of at least $1,000,000.00 as certified by the Michigan economic growth authority.

(g) "Qualified taxpayer" means a taxpayer that was designated by the Michigan economic growth authority as an anchor company within the last 5 years and that has influenced 1 or more qualified suppliers or customers to open, locate, or expand their business and conduct business activity within a 10-mile radius of the anchor company.

This act is ordered to take immediate effect.
Approved April 8, 2008.
Filed with Secretary of State April 8, 2008.

[No. 89]

(HB 5511)

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," by amending section 437 (MCL 208.1437).

The People of the State of Michigan enact:

208.1437 Qualified taxpayer with unused credits or preapproval letter; taxpayer not receiving certificate of approval; tax credit; project $2,000,000.00 or less; project more than $2,000,000.00 but $10,000,000.00 or less; project more than $10,000,000.00; procedures for application to Michigan economic growth authority; functionally obsolete property; approval of projects; limitations; multiphase project; documentation of completed project; addition of personal property; credit assignment; other credits; designation as urban development area project; professional sports stadiums; casinos; landfills; report; total credits; definitions.

Sec. 437. (1) Subject to the criteria under this section, a qualified taxpayer that has unused credits or has a preapproval letter issued after December 31, 2007 and before January 1,

2013, or a taxpayer that received a preapproval letter prior to January 1, 2008 under section 38g of former 1975 PA 228 and has not received a certificate of completion prior to the taxpayer's last tax year, provided that the project is completed not more than 5 years after the preapproval letter for the project is issued unless extended under subsection (9) or if it is a multiphase project not more than 10 years after the preapproval letter, as amended, if applicable, for the project is issued, or an assignee under subsection (20), (21), or (22) may claim a credit that has been approved under section 38g of former 1975 PA 228 or under subsection (2), (3), or (4) against the tax imposed by this act equal to either of the following:

(a) For projects approved before the effective date of the amendatory act that added subsection (33), if the total of all credits for a project is $1,000,000.00 or less, 10% of the cost of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property provided that the project does not exceed the amount stated in the preapproval letter, as amended. For projects approved on and after the effective date of the amendatory act that added subsection (33), if the total of all eligible investments for a project are $10,000,000.00 or less, up to 12.5% of the costs of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property or up to 15% of the costs of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority to the extent that the project does not exceed the amount stated in the preapproval letter, as amended, or, until December 31, 2010, up to 20% of the costs of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority. If eligible investment exceeds the amount of eligible investment in the preapproval letter, as amended, for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(b) For projects approved before the effective date of the amendatory act that added subsection (33), if the total of all credits for a project is more than $1,000,000.00 but $30,000,000.00 or less and, except as provided in subsection (6)(b), the project is located in a qualified local governmental unit, a percentage as determined by the Michigan economic growth authority not to exceed 10% of the cost of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property. For projects approved on and after the effective date of the amendatory act that added subsection (33), if the total of all eligible investments for a project is more than $10,000,000.00 but $300,000,000.00 or less, up to 12.5% of the costs of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property that, except as provided in subsection (6)(b), is located in a qualified local governmental unit, up to 15% of the cost of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority, or, until December 31, 2010, up to 20% of the costs of the qualified taxpayer's eligible investment as determined under subsection (11) paid or accrued by the qualified taxpayer on an eligible property if the project is designated as an urban development area project by the Michigan economic growth authority. If eligible investment exceeds the amount of eligible investment in the preapproval letter, as amended, for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(2) If the cost of a project will be $2,000,000.00 or less, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project.

Subject to the limitation provided under subsection (31), the chairperson of the Michigan economic growth authority or his or her designee is authorized to approve an application or project under this subsection. Only the chairperson of the Michigan economic growth authority is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the chairperson of the Michigan economic growth authority or his or her designee does not approve or deny the application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. If the chairperson of the Michigan economic growth authority or his or her designee approves a project under this subsection, the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection for the same project or for another project. The Michigan economic growth authority shall develop and implement the use of the application form to be used for projects under this subsection.

(3) If the cost of a project will be for more than $2,000,000.00 but $10,000,000.00 or less, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. Subject to the limitation provided under subsection (31), the chairperson of the Michigan economic growth authority or his or her designee is authorized to approve an application or project under this subsection. Only the chairperson of the Michigan economic growth authority is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the chairperson of the Michigan economic growth authority or his or her designee does not approve or deny an application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. The criteria in subsection (7) shall be used when approving projects under this subsection. When approving projects under this subsection, priority shall be given to projects on a facility. The total of all credits for an approved project under this subsection shall not exceed the amounts authorized under subsection (1)(a). A taxpayer may apply under this subsection instead of subsection (4) for approval of a project that will be for more than $10,000,000.00, but the total of all credits for that project shall not exceed the amounts authorized under subsection (1)(a). If the chairperson of the Michigan economic growth authority or his or her designee approves a project under this subsection, the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (4) for the same project or for another project.

(4) If the cost of a project will be for more than $10,000,000.00 and, except as provided in subsection (6)(b), the project is located in a qualified local governmental unit, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project. An application under this subsection shall state whether the project is a multiphase project. The Michigan economic growth authority shall approve or deny the project not more than 65 days after receipt of the application. A project under this subsection shall not be approved without the concurrence of the state treasurer. If the Michigan economic growth

authority does not approve or deny the application within 65 days after it receives the application, the Michigan economic growth authority shall send the application to the state treasurer. The state treasurer shall approve or deny the application within 5 days after receipt of the application. If the state treasurer does not deny the application within 5 days after receipt of the application, the application is considered approved. The Michigan economic growth authority shall approve a limited number of projects under this subsection during each calendar year as provided in subsection (6). The Michigan economic growth authority shall use the criteria in subsection (7) when approving projects under this subsection, when determining the total amount of eligible investment, and when determining the percentage of eligible investment for the project to be used to calculate a credit. The total of all credits for an approved project under this subsection shall not exceed the amount designated in the preapproval letter, as amended, for that project. If the Michigan economic growth authority approves a project under this subsection, the Michigan economic growth authority shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the percentage of eligible investment for the project determined by the Michigan economic growth authority for purposes of subsection (1)(b); the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. The Michigan economic growth authority shall send a copy of the preapproval letter to the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (3) for the same project or for another project.

(5) If the project is on property that is functionally obsolete, the taxpayer shall include with the application an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(6) The Michigan economic growth authority may approve not more than 20 projects each calendar year under subsection (4), and the following limitations apply:

(a) Of the 20 projects allowed under this subsection, the total of all credits for each project may be more than $10,000,000.00 but $30,000,000.00 or less for only 1 project.

(b) Of the 20 projects allowed under this subsection, up to 3 projects may be approved for projects that are not in a qualified local governmental unit if the property is a facility for which eligible activities are identified in a brownfield plan or, for 1 of the 3 projects, if the property is not a facility but is functionally obsolete or blighted, property identified in a brownfield plan. For purposes of this subdivision, a facility includes a building or complex of buildings that was used by a state or federal agency and that is no longer being used for the purpose for which it was used by the state or federal agency.

(c) The project allowed under subdivision (a) may also qualify under subdivision (b).

(7) The Michigan economic growth authority shall review all applications for projects under subsection (4) and, if an application is approved, shall determine the maximum total of all credits for that project. Before approving a project for which the total of all credits will be more than $10,000,000.00 but $30,000,000.00 or less only, the Michigan economic growth authority shall determine that the project would not occur in this state without the tax credit offered under subsection (4). The Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (4), and the chairperson of the Michigan economic growth authority or his or her designee shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (2) or (3) or when considering an amendment to a project under subsection (9):

(a) The overall benefit to the public.

(b) The extent of reuse of vacant buildings and redevelopment of blighted property.

(c) Creation of jobs.

(d) Whether the eligible property is in an area of high unemployment.

(e) The level and extent of contamination alleviated by the qualified taxpayer's eligible activities to the extent known to the qualified taxpayer.

(f) The level of private sector contribution.

(g) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(h) If the qualified taxpayer is moving from another location in this state, whether the move will create a brownfield.

(i) Whether the project is financially and economically sound.

(j) Any other criteria that the Michigan economic growth authority or the chairperson of the Michigan economic growth authority, as applicable, considers appropriate for the determination of eligibility under subsection (3) or (4).

(8) A qualified taxpayer may apply for projects under this section for eligible investment on more than 1 eligible property in a tax year. Each project approved and each project for which a certificate of completion is issued under this section shall be for eligible investment on 1 eligible property.

(9) If, after a taxpayer's project has been approved and the taxpayer has received a preapproval letter but before the taxpayer has made an eligible investment, other than soft costs, at the property, the taxpayer determines that the project cannot be completed as preapproved, the taxpayer may petition the Michigan economic growth authority to amend the project and the preapproval letter to increase the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project. A taxpayer may petition the Michigan economic growth authority to make any other amendments to the project or preapproval letter at any time before a certificate of completion is issued. Amendments to the project or preapproval letter may include, but are not limited to, extending the duration of time provided to complete the project, as long as that extension does not exceed 10 years from the date of the preapproval letter.

(10) A project may be a multiphase project. If a project is a multiphase project, when each component of the multiphase project is completed, the taxpayer shall submit documentation that the component is complete, an accounting of the cost of the component, and the eligible investment for the component of each taxpayer eligible for a credit for the project of which the component is a part to the Michigan economic growth authority or the designee of the Michigan economic growth authority, who shall verify that the component is complete. When the completion of the component is verified, a component completion certificate shall be issued to the qualified taxpayer which shall state that the taxpayer is a qualified taxpayer, the credit amount for the component, the qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer, and the project number. The taxpayer may assign all or part of the credit for a multiphase project as provided in this section after a component completion certificate for a component is issued. The qualified taxpayer may transfer ownership of or lease the completed component and assign a proportionate share of the credit for the entire project to the qualified taxpayer that is the new owner or lessee. A multiphase project shall not be divided into more than 10 components. A component is considered to be completed when a certificate of occupancy has been issued by the local municipality in which the project is located for all of the buildings or facilities that comprise the completed component and a component completion certificate is issued or the chairperson of the Michigan economic growth authority or his or her designee, for

projects approved under subsection (2) or (3), or the Michigan economic growth authority, for projects approved under subsection (4), verifies that the component is complete. A credit assigned based on a multiphase project shall be claimed by the assignee in the tax year in which the assignment is made. The total of all credits for a multiphase project shall not exceed the amount stated in the preapproval letter, as amended, for the project under subsection (1). If all components of a multiphase project are not completed by 10 years after the date on which the preapproval letter, as amended, if applicable, for the project was issued, the qualified taxpayer that received the preapproval letter for the project shall pay to the state treasurer, as a penalty, an amount equal to the sum of all credits claimed and assigned for all components of the multiphase project and no credits based on that multiphase project shall be claimed after that date by the qualified taxpayer or any assignee of the qualified taxpayer. The penalty under this subsection is subject to interest on the amount of the credit claimed or assigned determined individually for each component at the rate in section 23(2) of 1941 PA 122, MCL 205.23, beginning on the date that the credit for that component was claimed or assigned. As used in this subsection, "proportionate share" means the same percentage of the total of all credits for the project that the qualified investment for the completed component is of the total qualified investment stated in the preapproval letter, as amended, for the entire project.

(11) When a project under this section is completed, the taxpayer shall submit documentation that the project is completed, an accounting of the cost of the project, the eligible investment of each taxpayer if there is more than 1 taxpayer eligible for a credit for the project, and, if the taxpayer is not the owner or lessee of the eligible property on which the eligible investment was made at the time the project is completed, that the taxpayer was the owner or lessee of, or was a party to an agreement to purchase or lease, that eligible property when all eligible investment of the taxpayer was made. The chairperson of the Michigan economic growth authority or his or her designee, for projects approved under subsection (2) or (3), or the Michigan economic growth authority, for projects approved under subsection (4), shall verify that the project is completed. The Michigan economic growth authority shall conduct an on-site inspection as part of the verification process for projects approved under subsection (4). When the completion of the project is verified, a certificate of completion shall be issued to each qualified taxpayer that has made eligible investment on that eligible property. The certificate of completion shall state the total amount of all credits for the project and that total shall not exceed the maximum total of all credits listed in the preapproval letter for the project under subsection (2), (3), or (4) as applicable and as amended under subsection (9) and shall state all of the following:

(a) That the taxpayer is a qualified taxpayer.

(b) The total cost of the project and the eligible investment of each qualified taxpayer.

(c) Each qualified taxpayer's credit amount.

(d) The qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.

(e) The project number.

(f) For a project approved under subsection (4) for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, the total of all credits and the schedule on which the annual credit amount shall be claimed by the qualified taxpayer.

(g) For a multiphase project under subsection (10), the amount of each credit assigned and the amount of all credits claimed in each tax year before the year in which the project is completed.

(12) Except as otherwise provided in this section, qualified taxpayers shall claim credits under this section in the tax year in which the certificate of completion is issued. For a project

approved under subsection (4) for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, the qualified taxpayer shall claim 10% of its approved credit each year for 10 years. A credit assigned based on a multiphase project shall be claimed in the year in which the credit is assigned.

(13) The cost of eligible investment for leased machinery, equipment, or fixtures is the cost of that property had the property been purchased minus the lessor's estimate, made at the time the lease is entered into, of the market value the property will have at the end of the lease. A credit for property described in this subsection is allowed only if the cost of that property had the property been purchased and the lessor's estimate of the market value at the end of the lease are provided to the Michigan economic growth authority.

(14) Credits claimed by a lessee of eligible property are subject to the total of all credits limitation under this section.

(15) Each qualified taxpayer and assignee under subsection (20), (21), or (22) that claims a credit under this section shall attach a copy of the certificate of completion and, if the credit was assigned, a copy of the assignment form provided for under this section to the annual return filed under this act on which the credit under this section is claimed. An assignee of a credit based on a multiphase project shall attach a copy of the assignment form provided for under this section and the component completion certificate provided for in subsection (10) to the annual return filed under this act on which the credit is claimed but is not required to file a copy of a certificate of completion.

(16) Except as otherwise provided in this subsection or subsection (10), (18), (20), (21), or (22), a credit under this section shall be claimed in the tax year in which the certificate of completion is issued to the qualified taxpayer. For a project described in subsection (11)(f) for which a schedule for claiming annual credit amounts is designated on the certificate of completion by the Michigan economic growth authority, the annual credit amount shall be claimed in the tax year specified on the certificate of completion.

(17) Except as otherwise provided under this subsection, the credits approved under this section shall be calculated after application of all other credits allowed under this act. The credits under this section shall be calculated before the calculation of the credits under sections 413, 423, 431, and 450.

(18) Except as otherwise provided under this subsection, if the credit allowed under this section for the tax year and any unused carryforward of the credit allowed under this section exceed the qualified taxpayer's or assignee's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. Except as otherwise provided in this subsection, the maximum time allowed under the carryforward provisions under this subsection begins with the tax year in which the certificate of completion is issued to the qualified taxpayer. If the qualified taxpayer assigns all or any portion of its credit approved under this section, the maximum time allowed under the carryforward provisions for an assignee begins to run with the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. The maximum time allowed under the carryforward provisions for an annual credit amount for a credit allowed under subsection (4) begins to run in the tax year for which the annual credit amount is designated on the certificate of completion issued under this section. A credit carryforward available under section 38g of former 1975 PA 228 that is unused at the end of the last tax year may be claimed against the tax imposed under act for the years the carryforward would have been available under former 1975 PA 228. Beginning on and after the effective date of the amendatory act that added subsection (33), if the credit allowed under this section for the tax year exceeds the qualified taxpayer's tax liability for the tax year, the qualified taxpayer may elect to have the excess refunded at a rate equal to 85% of

that portion of the credit that exceeds the tax liability of the qualified taxpayer for the tax year and forgo the remaining 15% of the credit and any carryforward.

(19) If a project or credit under this section is for the addition of personal property, if the cost of that personal property is used to calculate a credit under this section, and if the personal property is disposed of or transferred from the eligible property to any other location, the qualified taxpayer that disposed of that property, or transferred the personal property shall add the same percentage as determined under subsection (1) of the federal basis of the personal property used for determining gain or loss as of the date of the disposition or transfer to the qualified taxpayer's tax liability under this act after application of all credits under this act for the tax year in which the disposition or transfer occurs. If a qualified taxpayer has an unused carryforward of a credit under this section, the amount otherwise added under this subsection to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under subsection (18).

(20) For credits under this section for projects for which a certificate of completion is issued before January 1, 2006 and except as otherwise provided in this subsection, if a qualified taxpayer pays or accrues eligible investment on or to an eligible property that is leased for a minimum term of 10 years or sold to another taxpayer for use in a business activity, the qualified taxpayer may assign all or a portion of the credit under this section based on that eligible investment to the lessee or purchaser of that eligible property. A credit assignment under this subsection shall only be made to a taxpayer that when the assignment is complete will be a qualified taxpayer. All credit assignments under this subsection are irrevocable and, except for a credit based on a multiphase project, shall be made in the tax year in which the certificate of completion is issued, unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, if the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which the certificate of completion is issued or, for a credit assigned and claimed for a multiphase project before a certificate of completion is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. If a qualified taxpayer assigns all or a portion of the credit and the eligible property is leased to more than 1 taxpayer, the qualified taxpayer shall determine the amount of credit assigned to each lessee. A lessee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. A purchaser may subsequently assign a credit or any portion of a credit assigned to the purchaser under this subsection to a lessee of the eligible property. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assignment form to its annual return required to be filed under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than $10,000,000.00 but $30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(21) Except as otherwise provided in this subsection, for projects for which a certificate of completion is issued before January 1, 2006, and except as otherwise provided in this subsection, if a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or a portion of a credit under this section to its partners, members, or shareholders, based on their proportionate share of ownership of the partnership, limited liability company, or subchapter S corporation or based on an alternative method approved by the Michigan economic growth authority. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, if the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completion is issued or for a credit assigned and claimed for a multiphase project, before the component completion certificate is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. A partner, member, or shareholder who is an assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. A credit assignment based on a credit for a component of a multiphase project that is completed before January 1, 2006 shall be made under this subsection. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than $10,000,000.00 but $30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(22) For projects approved under this section or section 38g of former 1975 PA 228 for which a certificate of completion is issued on and after January 1, 2006, a qualified taxpayer may assign all or a portion of a credit allowed under this section or section 38g(2), (3), or (33) of former 1975 PA 228 under this subsection. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completion is issued pursuant to this section or section 38g of former 1975 PA 228. An assignee may subsequently assign a credit or any portion of a

credit assigned under this subsection to 1 or more assignees. The credit assignment or a subsequent reassignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The Michigan economic growth authority or its designee shall review and issue a completed assignment or reassignment certificate to the assignee or reassignee. An assignee or subsequent reassignee shall attach a copy of the completed assignment certificate to its annual return required under this act, for the tax year in which the assignment or reassignment is made and the assignee or reassignee first claims a credit, which shall be the same tax year. A credit assignment based on a credit for a component of a multiphase project that is completed before January 1, 2006 shall be made under section 38g(18) of former 1975 PA 228. A credit assignment based on a credit for a component of a multiphase project that is completed on or after January 1, 2006 may be made under this section. In addition to all other procedures and requirements under this section, the following apply if the total of all credits for a project is more than $10,000,000.00 but $30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee, and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(23) A qualified taxpayer or assignee under subsection (20), (21), or (22) shall not claim a credit under subsection (1)(a) or (b) based on eligible investment on which a credit claimed under section 38d of former 1975 PA 228 was based.

(24) When reviewing an application for a project for designation as an urban development area project, the Michigan economic growth authority for projects approved under subsection (4) or the chairperson of the Michigan economic growth authority or his or her designee for projects approved under subsections (2) and (3) shall consider all of the following criteria:

(a) If the project increases the density of the area by promoting multistory development.

(b) If the project promotes mixed-use development and walkable communities.

(c) If the project promotes sustainable redevelopment.

(d) If the project addresses areawide redevelopment and includes multiple parcels of property.

(e) If the project addresses underserved markets of commerce.

(f) Any other criteria determined by the Michigan economic growth authority or the chairperson of the Michigan economic growth authority.

(25) An eligible taxpayer that claims a credit under this section is not prohibited from claiming a credit under section 431. However, the eligible taxpayer shall not claim a credit under this section and section 431 based on the same costs.

(26) Eligible investment attributable or related to the operation of a professional sports stadium, and eligible investment that is associated or affiliated with the operation of a professional sports stadium, including, but not limited to, the operation of a parking lot or retail store, shall not be used as a basis for a credit under this section. Professional sports stadium does not include a professional sports stadium that will no longer be used by a professional sports team on and after the date that an application related to that professional sports stadium is filed under this section.

(27) Eligible investment attributable or related to the operation of a casino, and eligible investment that is associated or affiliated with the operation of a casino, including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used as a basis for a credit under this section. As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(28) Eligible investment attributable or related to the construction of a new landfill or the expansion of an existing landfill regulated under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, shall not be used as a basis for a credit under this section.

(29) The Michigan economic growth authority annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under subsections (2), (3), and (4). The report shall include, but is not limited to, all of the following:

(a) A listing of the projects under subsections (2), (3), and (4) that were approved in the calendar year.

(b) The total amount of eligible investment for projects approved under subsections (2), (3), and (4) in the calendar year.

(30) For purposes of this section, taxpayer includes a person subject to the tax imposed under chapters 2A and 2B.

(31) For the 2008 calendar year, the total of all credits for all projects approved under subsection (2) or (3) shall not exceed $63,000,000.00. For each calendar year after 2008, the total of all credits for all projects approved under subsection (2) or (3) shall not exceed $40,000,000.00. If the Michigan economic growth authority approves a total of all credits for all projects under subsection (2) or (3) of less than $40,000,000.00 in a calendar year, the Michigan economic growth authority may carry forward for 1 year only the difference between $40,000,000.00 and the total of all credits for all projects under this subsection approved in the immediately preceding calendar year.

(32) As used in this section:

(a) "Annual credit amount" means the maximum amount that a qualified taxpayer is eligible to claim each tax year for a project for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, as approved under subsection (4).

(b) "Authority" means a brownfield redevelopment authority created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(c) "Blighted", "brownfield plan", "eligible activities", "facility", "functionally obsolete", "qualified local governmental unit", and "response activity" mean those terms as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(d) "Eligible investment" or "eligible investments" means, when made after the approval date of the brownfield plan but in any event no earlier than 90 days prior to the date of the preapproval letter, any demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property and the addition of machinery, equipment, and fixtures to eligible property after the date that eligible activities on that eligible property have started pursuant to a brownfield plan under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, if the costs of the eligible investment are not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer. The addition of leased machinery, equipment, or fixtures to eligible property by a lessee of the machinery, equipment, or fixtures is eligible investment if the lease of the machinery, equipment, or fixtures has a minimum

term of 10 years or is for the expected useful life of the machinery, equipment, or fixtures, and if the owner of the machinery, equipment, or fixtures is not the qualified taxpayer with regard to that machinery, equipment, or fixtures. For projects approved after the effective date of the amendatory act that added subsection (33), eligible investment does not include certain soft costs of the eligible investment as determined by the Michigan economic growth authority, including, but not limited to, developer fees, appraisals, performance bonds, closing costs, bank fees, loan fees, risk contingencies, financing costs, permanent or construction period interest, legal expenses, leasing or sales commissions, marketing costs, professional fees, shared savings, taxes, title insurance, bank inspection fees, insurance, and project management fees. Notwithstanding the foregoing, eligible investment does include architectural, engineering, surveying, and similar professional fees.

(e) "Eligible property", except as otherwise provided under subsection (33), means property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, public, or residential purposes, including personal property located on the property, to the extent included in the brownfield plan, and that is 1 or more of the following:

(*i*) Is in a qualified local governmental unit and is a facility, functionally obsolete, or blighted and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property.

(*ii*) Is not in a qualified local governmental unit and is a facility, and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property.

(*iii*) Is tax reverted property owned or under the control of a land bank fast track authority.

(f) "Last tax year" means the taxpayer's tax year under former 1975 PA 228 that begins after December 31, 2006 and before January 1, 2008.

(g) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(h) "Multiphase project" means a project approved under this section that has more than 1 component, each of which can be completed separately.

(i) "Personal property" means that term as defined in section 8 of the general property tax act, 1893 PA 206, MCL 211.8, except that personal property does not include either of the following:

(*i*) Personal property described in section 8(h), (i), or (j) of the general property tax act, 1893 PA 206, MCL 211.8.

(*ii*) Buildings described in section 14(6) of the general property tax act, 1893 PA 206, MCL 211.14.

(j) "Project" means the total of all eligible investment on an eligible property or, for purposes of subsection (6)(b), 1 of the following:

(*i*) All eligible investment on property not in a qualified local governmental unit that is a facility.

(*ii*) All eligible investment on property that is not a facility but is functionally obsolete or blighted.

(k) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(*l*) "Qualified taxpayer" means a taxpayer that meets both of the following criteria:

(*i*) Owns, leases, or has entered into an agreement to purchase or lease eligible property.

(*ii*) Certifies that, except as otherwise provided in this subparagraph, the department of environmental quality has not sued or issued a unilateral order to the taxpayer pursuant to part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response activity on or to the eligible property, or expended any state funds for response activity on or to the eligible property and demanded reimbursement for those expenditures from the qualified taxpayer. However, if the taxpayer has completed all response activity required by part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, is in compliance with any deed restriction or administrative or judicial order related to the required response activity, and has reimbursed the state for all costs incurred by the state related to the required response activity, the taxpayer meets the criteria under this subparagraph.

(m) "Urban development area project" means a project located on eligible property in the downtown or traditional central business district of a qualified local governmental unit or county seat or along a traditional commercial corridor of a qualified local governmental unit or county seat as determined by the Michigan economic growth authority or the chairperson of the Michigan economic growth authority or his or her designee.

(33) For purposes of subsection (2), eligible property means that term as defined under subsection (32)(e) except that all of the following apply:

(a) Eligible property means property identified under a brownfield plan that was used or is currently used for commercial, industrial, public, or residential purposes and that is 1 of the following:

(*i*) Property for which eligible activities are identified under the brownfield plan, is in a qualified local governmental unit, and is a facility, functionally obsolete, or blighted.

(*ii*) Property that is not in a qualified local governmental unit but is within a downtown development district established under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally obsolete or blighted, and a component of the project on that eligible property is 1 or more of the following:

(A) Infrastructure improvements that directly benefit the eligible property.

(B) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(*iii*) Property for which eligible activities are identified under the brownfield plan, is not in a qualified local governmental unit, and is a facility.

(b) Eligible property includes parcels that are adjacent or contiguous to the eligible property if the development of the adjacent or contiguous parcels is estimated to increase the captured taxable value of the property or tax reverted property owned or under the control of a land bank fast track authority pursuant to the land bank fast track authority act, 2003 PA 258, MCL 124.751 to 124.774.

(c) Eligible property includes, to the extent included in the brownfield plan, personal property located on the eligible property.

(d) Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by

a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

This act is ordered to take immediate effect.
Approved April 8, 2008.
Filed with Secretary of State April 8, 2008.

[No. 90]

(HB 4416)

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 2501 and 2512 (MCL 339.2501 and 339.2512), section 2501 as amended by 2003 PA 196 and section 2512 as amended by 2002 PA 42, and by adding section 2512d.

The People of the State of Michigan enact:

339.2501 Definitions.

Sec. 2501. As used in this article:

(a) "Employ" or "employment" means the relationship between a real estate broker and an associate broker or a real estate salesperson which may include an independent contractor relationship. The existence of an independent contractor relationship between a real estate broker and an individual licensed to the real estate broker shall not relieve the real estate broker of the responsibility to supervise acts of the licensee regulated by this article.

(b) "Independent contractor relationship" means a relationship between a real estate broker and an associate broker or real estate salesperson that satisfies both of the following conditions:

(*i*) A written agreement exists in which the real estate broker does not consider the associate broker or real estate salesperson as an employee for federal and state income tax purposes.

(*ii*) Not less than 75% of the annual compensation paid by the real estate broker to the associate broker or real estate salesperson is from commissions from the sale of real estate.

(c) "Limited service agreement" means a written service provision agreement by which the real estate broker and client establish an agency relationship in which certain enumerated services, as set forth in section 2512d(3)(b), (c), and (d), are knowingly waived in whole or part by the client.

(d) "Professional designation" means a certification from a real estate professional association demonstrating attainment of proven skills or education in a real estate occupational area and may include the right to use a title or letters after the licensee's name that represent the designation bestowed by the certifying entity.

(e) "Property management" means the leasing or renting, or the offering to lease or rent, of real property of others for a fee, commission, compensation, or other valuable consideration pursuant to a property management employment contract.

(f) "Property management account" means an interest-bearing or noninterest-bearing account or instrument used in the operation of property management.

(g) "Property management employment contract" means the written agreement entered into between a real estate broker and client concerning the real estate broker's employment as a property manager for the client; setting forth the real estate broker's duties, responsibilities, and activities as a property manager; and setting forth the handling, management, safekeeping, investment, disbursement, and use of property management money, funds, and accounts.

(h) "Real estate broker" means an individual, sole proprietorship, partnership, association, corporation, common law trust, or a combination of those entities who with intent to collect or receive a fee, compensation, or valuable consideration, sells or offers for sale, buys or offers to buy, provides or offers to provide market analyses, lists or offers or attempts to list, or negotiates the purchase or sale or exchange or mortgage of real estate, or negotiates for the construction of a building on real estate; who leases or offers or rents or offers for rent real estate or the improvements on the real estate for others, as a whole or partial vocation; who engages in property management as a whole or partial vocation; who sells or offers for sale, buys or offers to buy, leases or offers to lease, or negotiates the purchase or sale or exchange of a business, business opportunity, or the goodwill of an existing business for others; or who, as owner or otherwise, engages in the sale of real estate as a principal vocation.

(i) "Real estate salesperson" means a person who for compensation or valuable consideration is employed either directly or indirectly by a licensed real estate broker to sell or offer to sell, to buy or offer to buy, to provide or offer to provide market analyses, to list or offer or attempt to list, or to negotiate the purchase or sale or exchange or mortgage of real estate, or to negotiate for the construction of a building on real estate, or to lease or offer to lease, rent or offer for rent real estate, who is employed by a real estate broker to engage in property management, or who sells or offers for sale, buys or offers to buy, leases or offers to lease, or negotiates the purchase or sale or exchange of a business, business opportunity, or the goodwill of an existing business for others, as a whole or partial vocation.

(j) "Service provision agreement" means a buyer agency agreement or listing agreement executed by a real estate broker and a client that establishes an agency relationship.

339.2512 Prohibited conduct; penalties.

Sec. 2512. A licensee who commits 1 or more of the following is subject to the penalties set forth in article 6:

(a) Except in a case involving property management, acts for more than 1 party in a transaction without the knowledge of the parties.

(b) Fails to provide a written agency disclosure to a prospective buyer or seller in a real estate transaction as defined in section 2517.

(c) Represents or attempts to represent a real estate broker other than the employer without the express knowledge and consent of the employer.

(d) Fails to account for or to remit money coming into the licensee's possession which belongs to others.

(e) Changes a business location without notification to the department.

(f) In the case of a real estate broker, fails to return a real estate salesperson's license within 5 days as provided in section 2507.

(g) In the case of a licensee engaged in property management, violates section 2512c(2), (5), or (6).

(h) Except as provided in section 2512b, shares or pays a fee, commission, or other valuable consideration to a person not licensed under this article including payment to any person providing the names of, or any other information regarding, a potential seller or purchaser of real estate but excluding payment for the purchase of commercially prepared lists of names. However, a licensed real estate broker may pay a commission to a licensed real estate broker of another state if the nonresident real estate broker does not conduct in this state a negotiation for which a commission is paid.

(i) Conducts or develops a market analysis not in compliance with section 2601(a)(*ii*).

(j) Fails to provide the minimum services as specified in section 2512d(3) when providing services pursuant to a service provision agreement unless expressly waived in writing by the client under section 2517(3).

(k) Except in the case of property management accounts, fails to deposit in the real estate broker's custodial trust or escrow account money belonging to others coming into the hands of the licensee in compliance with the following:

(*i*) A real estate broker shall retain a deposit or other money made payable to a person, partnership, corporation, or association holding a real estate broker's license under this article pending consummation or termination of the transaction involved and shall account for the full amount of the money at the time of the consummation or termination of the transaction.

(*ii*) A real estate salesperson shall pay over to the real estate broker, upon receipt, a deposit or other money on a transaction in which the real estate salesperson is engaged on behalf of the real estate broker.

(*iii*) A real estate broker shall not permit an advance payment of funds belonging to others to be deposited in the real estate broker's business or personal account or to be commingled with funds on deposit belonging to the real estate broker.

(*iv*) A real estate broker shall deposit, within 2 banking days after the broker has received notice that an offer to purchase is accepted by all parties, money belonging to others made payable to the real estate broker into a separate custodial trust or escrow account maintained by the real estate broker with a bank, savings and loan association, credit union, or recognized depository until the transaction involved is consummated or terminated, at which time the real estate broker shall account for the full amount received.

(*v*) A real estate broker shall keep records of funds deposited in its custodial trust or escrow account, which records shall indicate clearly the date and from whom the money was received, the date deposited, the date of withdrawal, and other pertinent information concerning the transaction, and shall show clearly for whose account the money is deposited and to whom the money belongs. The records shall be subject to inspection by the department. A real estate broker's separate custodial trust or escrow account shall designate the real estate broker as trustee, and the custodial trust or escrow account shall provide for withdrawal of funds without previous notice. This article and the rules promulgated pursuant to this article do not prohibit the deposit of money accepted under this section in a noninterest bearing account of a state or federally chartered savings and loan association or a state or federally chartered credit union.

(*vi*) If a purchase agreement signed by a seller and purchaser provides that a deposit be held by an escrowee other than a real estate broker, a licensee in possession of such a deposit shall cause the deposit to be delivered to the named escrowee within 2 banking days after the licensee has received notice that an offer to purchase is accepted by all parties.

339.2512d Service provision agreement; conduct by real estate broker or real estate salesperson; services; misleading public prohibited; waiver of services in limited service agreement.

Sec. 2512d. (1) A real estate broker or real estate salesperson acting pursuant to a service provision agreement shall perform the duties imposed in subsection (2). A real estate broker may authorize a designated agent to represent the client, so long as that authorization is in writing.

(2) A real estate broker or real estate salesperson acting pursuant to a service provision agreement owes, at a minimum, the following duties to his or her client:

(a) The exercise of reasonable care and skill in representing the client and carrying out the responsibilities of the agency relationship.

(b) The performance of the terms of the service provision agreement.

(c) Loyalty to the interest of the client.

(d) Compliance with the laws, rules, and regulations of this state and any applicable federal statutes or regulations.

(e) Referral of the client to other licensed professionals for expert advice related to material matters that are not within the expertise of the licensed agent.

(f) An accounting in a timely manner of all money and property received by the agent in which the client has or may have an interest.

(g) Confidentiality of all information obtained in the course of the agency relationship, unless disclosed with the client's permission or as provided by law, including the duty not to disclose confidential information to any licensee who is not an agent of the client.

(3) A real estate broker or real estate salesperson acting pursuant to a service provision agreement shall provide the following services to his or her client:

(a) When the real estate broker or real estate salesperson is representing a seller or lessor, the marketing of the client's property in the manner agreed upon in the service provision agreement.

(b) Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease.

(c) Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived.

(d) After execution of a purchase agreement by all parties, assistance as necessary to complete the transaction under the terms specified in the purchase agreement.

(e) For a broker or associate broker who is involved at the closing of a real estate or business opportunity transaction furnishing, or causing to be furnished, to the buyer and seller, a complete and detailed closing statement signed by the broker or associated broker showing each party all receipts and disbursements affecting that party.

(4) A real estate broker or real estate salesperson representing a seller under a service provision agreement shall not advertise the property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker.

(5) The services described in subsection (3)(b), (c), and (d) may be waived in a limited service agreement.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4417 of the 94th Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act takes effect July 1, 2008.

This act is ordered to take immediate effect.
Approved April 8, 2008.
Filed with Secretary of State April 8, 2008.

Compiler's note: House Bill No. 4417, referred to in enacting section 1, was filed with the Secretary of State April 8, 2008, and became 2008 PA 91, Eff. July 1, 2008.

[No. 91]

(HB 4417)

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 2517 (MCL 339.2517), as amended by 2000 PA 436.

The People of the State of Michigan enact:

339.2517 Disclosure of agency relationship.

Sec. 2517. (1) A licensee shall disclose to a potential buyer or seller in a real estate transaction all types of agency relationships available and the licensee's duties that each agency relationship creates before the disclosure by the potential buyer or seller to the licensee of any confidential information specific to that potential buyer or seller.

(2) Unless knowingly waived by execution of a limited service agreement, a real estate broker or real estate salesperson providing services under any service provision agreement shall, at a minimum, provide to the client the duties described in section 2512d(2) and the services described in section 2512d(3).

(3) The disclosure of the type of agency relationship shall be in writing, shall be provided to the client, and shall substantially conform to the following:

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS

Before you disclose confidential information to a real estate licensee regarding a real estate transaction, you should understand what type of agency relationship you have with that licensee. A real estate transaction is a transaction involving the sale or lease of any legal or equitable interest in real estate consisting of not less than 1 or not more than 4 residential dwelling units or consisting of a building site for a residential unit on either a lot as defined in section 102 of the land division act, 1967 PA 288, MCL 560.102, or a condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104.

(1) An agent providing services under any service provision agreement owes, at a minimum, the following duties to the client:

(a) The exercise of reasonable care and skill in representing the client and carrying out the responsibilities of the agency relationship.

(b) The performance of the terms of the service provision agreement.

(c) Loyalty to the interest of the client.

(d) Compliance with the laws, rules, and regulations of this state and any applicable federal statutes or regulations.

(e) Referral of the client to other licensed professionals for expert advice related to material matters that are not within the expertise of the licensed agent.

(f) An accounting in a timely manner of all money and property received by the agent in which the client has or may have an interest.

(g) Confidentiality of all information obtained within the course of the agency relationship, unless disclosed with the client's permission or as provided by law, including the duty not to disclose confidential information to any licensee who is not an agent of the client.

(2) A real estate broker or real estate salesperson acting pursuant to a service provision agreement shall provide the following services to his or her client:

(a) When the real estate broker or real estate salesperson is representing a seller or lessor, the marketing of the client's property in the manner agreed upon in the service provision agreement.

(b) Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease.

(c) Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived.

(d) After execution of a purchase agreement by all parties, assistance as necessary to complete the transaction under the terms specified in the purchase agreement.

(e) For a broker or associate broker who is involved at the closing of a real estate or business opportunity transaction furnishing, or causing to be furnished, to the buyer and seller, a complete and detailed closing statement signed by the broker or associated broker showing each party all receipts and disbursements affecting that party.

Michigan law requires real estate licensees who are acting as agents of sellers or buyers of real property to advise the potential sellers or buyers with whom they work of the nature of their agency relationship.

Seller's Agents

A seller's agent, under a listing agreement with the seller, acts solely on behalf of the seller. A seller can authorize a seller's agent to work with subagents, buyer's agents and/or transaction coordinators. A subagent is one who has agreed to work with the listing agent, and who, like the listing agent, acts solely on behalf of the seller. Seller's agents and subagents will disclose to the seller known information about the buyer which may be used to the benefit of the seller. Individual services may be waived by the seller through execution of a limited service agreement. Only those services set forth in paragraph (2)(b), (c), and (d) above may be waived by the execution of a limited service agreement.

Buyer's Agents

A buyer's agent, under a buyer's agency agreement with the buyer, acts solely on behalf of the buyer. Buyer's agents and subagents will disclose to the buyer known information about the seller which may be used to benefit the buyer. Individual services may be waived by the buyer through execution of a limited service agreement. Only those services set

forth in paragraph (2)(b), (c), or (d) above may be waived by execution of a limited service agreement.

Dual Agents

A real estate licensee can be the agent of both the seller and the buyer in a transaction, but only with the knowledge and informed consent, in writing, of both the seller and the buyer.

In such a dual agency situation, the licensee will not be able to disclose all known information to either the seller or the buyer.

The obligations of a dual agent are subject to any specific provisions set forth in any agreement between the dual agent, the seller, and the buyer.

Licensee Disclosure (check one)

I hereby disclose that the agency status of the licensee named below is:

_____ Seller's Agent

_____ Seller's Agent - limited service agreement

_____ Buyer's Agent

_____ Buyer's Agent - limited service agreement

_____ Dual Agent

_____ None of the above

Affiliated Licensee Disclosure (check one)

_____ Only the licensee's broker and a named supervisory broker have the same agency relationship as the licensee named below. If the other party in a transaction is represented by an affiliated licensee, then the licensee's broker and all named supervisory brokers shall be considered disclosed consensual dual agents.

_____ All affiliated licensees have the same agency relationship as the licensee named below.

Further, this form was provided to the buyer or seller before disclosure of any confidential information.

_____ _____

Licensee Date

_____ _____

Licensee Date

Acknowledgment

By signing below, the parties acknowledge that they have received and read the information in this agency disclosure statement and acknowledge that this form was provided to them before the disclosure of any confidential information.

_____ _____

Potential Buyer/Seller (circle one) Date

_____ _____

Potential Buyer/Seller (circle one) Date

(4) On a separate form, the following information in the following format shall be provided to a client desiring to waive any of the services required under section 2512d(3)(b), (c), and (d) by execution of a limited service agreement:

LIMITED SERVICE AGREEMENT

Pursuant to Michigan law certain services provided by a real estate licensee may be waived.

A real estate licensee is required to perform certain services for his or her client unless these services are waived by the client. By signing below, you agree that the real estate licensee will not be required to perform the services initialed (only initial the services waived).

	Initial if waived:	
—Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease your property or the property you seek to purchase or lease.	_____	_____
—Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived.	_____	_____
—After execution of a purchase agreement by all parties, assistance as necessary to complete the transaction under the terms specified in the purchase agreement.	_____	_____

Agreement to Waive

By signing below, I acknowledge that the duties owed to me pursuant to Michigan law have been explained to me and that I knowingly agree that the real estate licensee who represents me will not provide the services that are initialed above. I also understand that in any proposed real estate transaction, no other real estate licensee is required to provide the waived services unless I subsequently hire them to do so. I also acknowledge that in order to protect my interests I may need to retain other professionals, such as an attorney.

_____ _____

Seller or Buyer Date

_____ _____

Seller or Buyer Date

_____ _____

Real Estate Broker or Salesperson Date

_____

Brokerage Name

(5) This article does not prevent a licensee from acting as a transaction coordinator upon proper notice to all parties to a real estate transaction.

(6) A broker and a client may enter into a designated agency agreement. In the absence of a written designated agency agreement, a client is considered to have an agency relationship with the broker and all affiliated licensees.

(7) A designated agency agreement shall contain the name of all associate brokers who are authorized to act as supervisory brokers. If designated agents who are affiliated licensees

represent different parties in the same real estate transaction, the broker and all supervisory brokers are considered disclosed consensual dual agents for that real estate transaction. Designated agents who are affiliated licensees representing different parties in the same transaction shall notify their clients that their broker represents both buyer and seller before an offer to purchase is made or presented.

(8) Except as otherwise provided in subsection (7), a client with a designated agency agreement is not considered to have an agency relationship with any affiliated licensees of the designated agent. Two designated agents who are affiliated licensees may each represent a different party in the same transaction and shall not be considered dual agents. The designated agent's knowledge of confidential information of a client is not imputed to any affiliated licensee not having an agency relationship with that client.

(9) A designated agent shall not disclose confidential information of a client to any licensee, whether or not an affiliated licensee, except that a designated agent may disclose to any supervisory broker confidential information of a client for purposes of seeking advice or assistance for the benefit of the client. A licensee who represents a client in an agency capacity does not breach any duty or obligation owed to that client by failing to disclose to that client information obtained through a present or prior agency relationship.

(10) A listing agreement or a buyer's agency agreement may be amended to establish a designated agency relationship, to change a designated agent, or to change supervisory brokers at any time pursuant to a written addendum signed by the parties.

(11) As used in this section:

(a) "Affiliated licensees" means individuals licensed as salespersons or associate brokers who are employed by the same broker.

(b) "Buyer" means a purchaser, tenant, or lessee of any legal or equitable interest in real estate.

(c) "Buyer's agent" means a licensee acting on behalf of the buyer in a real estate transaction who undertakes to accept the responsibility of serving the buyer consistent with those fiduciary duties existing under common law.

(d) "Designated agent" means an individual salesperson or an associate broker who is designated by the broker as the client's legal agent pursuant to a designated agency agreement.

(e) "Designated agency agreement" means a written agreement between a broker and a client in which an individual salesperson or associate broker affiliated with that broker is named as that client's designated agent.

(f) "Dual agent" means a licensee who is acting as the agent of both the buyer and the seller and provides services to complete a real estate transaction without the full range of fiduciary duties owed by a buyer's agent and a seller's agent.

(g) "Real estate transaction" means the sale or lease of any legal or equitable interest in real estate where the interest in real estate consists of not less than 1 or not more than 4 residential dwelling units or consists of a building site for a residential unit on either a lot as defined in section 102 of the land division act, 1967 PA 288, MCL 560.102, or a condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104.

(h) "Seller" means the equitable or legal owner of real estate.

(i) "Seller's agent" means a licensee acting on behalf of the seller in a real estate transaction who undertakes to accept the responsibility of serving the seller consistent with those fiduciary duties existing under common law.

(j) "Supervisory broker" means an associate broker designated in a written agency agreement to act in a supervisory role in an agency relationship.

(k) "Transaction coordinator" means a licensee who is not acting as the agent of either the buyer or the seller.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4416 of the 94th Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act takes effect July 1, 2008.

This act is ordered to take immediate effect.
Approved April 8, 2008.
Filed with Secretary of State April 8, 2008.

Compiler's note: House Bill No. 4416, referred to in enacting section 1, was filed with the Secretary of State April 8, 2008, and became 2008 PA 90, Eff. July 1, 2008.

[No. 92]

(SB 1115)

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," (MCL 208.1101 to 208.1601) by adding section 431a.

The People of the State of Michigan enact:

208.1431a Tax credit; amount; percentage of qualified supplier's or customer's payroll attributable to employees performing qualified new jobs; determination by Michigan economic growth authority; certificate; issuance; contents; failure to meet requirements or conditions; definitions.

Sec. 431a. (1) A qualified taxpayer may claim a credit against the tax imposed by this act in an amount up to 100% of the qualified supplier's or customer's payroll attributable to employees who perform qualified new jobs as determined by the Michigan economic growth authority, multiplied by the tax rate for the tax year for a period of up to 5 years as determined by the Michigan economic growth authority. If the credit allowed under this subsection exceeds the liability of the taxpayer for the tax year, the taxpayer may elect to have that portion that exceeds the tax liability of the taxpayer refunded or to have the excess carried forward to offset tax liability in subsequent years for 10 years or until it is used up, whichever occurs first. The Michigan economic growth authority shall not designate more than 5 taxpayers as an anchor company in each calendar year and shall not approve more than 5 new credits in each calendar year under this subsection. A taxpayer has 5 years from the date on which the taxpayer is designated as an anchor company to seek certification from the Michigan economic growth authority as a qualified taxpayer for each qualified supplier or customer for which a credit is sought under this section. However, a credit shall not be provided for a tax year prior to the tax year during which the certification is made. If a qualified taxpayer is awarded a credit under this subsection, any subsequent credits awarded to

that qualified taxpayer shall not be included in determining the yearly limit of 5 new credits under this subsection.

(2) The Michigan economic growth authority may also provide that qualified sales to a qualified supplier or customer are not sales in this state for purposes of calculating the sales factor under this act for the tax year for which a credit is provided under this section. Qualified sales to a qualified supplier or customer are the total sales in this state to a qualified supplier or customer multiplied by a fraction, the numerator of which is the compensation on which the credit in this section is calculated and the denominator of which is the total compensation of the qualified supplier or customer in this state.

(3) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the annual return filed under this act on which the credit under this section is claimed. The certificate required by this subsection shall state all of the following:

(a) The taxpayer is a qualified taxpayer and the date on which the taxpayer was designated as an anchor company.

(b) The amount of the credit under this section for the qualified taxpayer for the designated tax year.

(c) The amount of the qualified sales calculated in accordance with the fraction described under subsection (2).

(d) The taxpayer's federal employer identification number or the Michigan department of treasury number assigned to the taxpayer.

(4) A taxpayer that claims a credit under this section and subsequently fails to meet the requirements of this section or any other conditions included in an agreement entered into with the Michigan economic growth authority in order to obtain a certificate for which the credit was under this section may, as to be determined by the Michigan economic growth authority, have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the taxpayer in the year that the taxpayer fails to comply with this section or the agreement.

(5) As used in this section:

(a) "Anchor company" means a qualified high-technology business that is an integral part of a high-technology activity and that has the ability or potential ability to influence business decisions and site location of qualified suppliers and customers.

(b) "Business", "qualified high-technology activity", and "qualified high-technology business" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(*i*) A qualified supplier or customer.

(*ii*) An employee leasing company on behalf of a qualified supplier or customer.

(*iii*) A professional employer organization on behalf of a qualified supplier or customer.

(d) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(e) "Qualified new job" means a full-time job created by a qualified supplier or customer at a facility or facilities that is in excess of the number of full-time jobs a qualified supplier or customer maintained in this state or at a facility prior to the expansion or location, as determined by the authority.

(f) "Qualified supplier or customer" means a business that opens a new location in this state, a business that locates in this state, or an existing business located in this state that expands its business within the last year as a result of an anchor company and satisfies, as certified by the Michigan economic growth authority, each of the following:

(*i*) Has financial transactions with the anchor company.

(*ii*) Sells a critical or unique component or technology necessary for the anchor company to market a finished product or buys a critical or unique component from the anchor company.

(*iii*) Has created more than 10 qualified new jobs.

(*iv*) Has made an investment of at least $1,000,000.00 as certified by the Michigan economic growth authority.

(g) "Qualified taxpayer" means a taxpayer that was designated by the Michigan economic growth authority as an anchor company within the last 5 years and that has influenced a new qualified supplier or customer to open, locate, or expand in this state.

This act is ordered to take immediate effect.
Approved April 8, 2008.
Filed with Secretary of State April 8, 2008.

[No. 93]

(SB 351)

AN ACT to amend 1972 PA 106, entitled "An act to provide for the licensing, regulation, control, and prohibition of outdoor advertising adjacent to certain roads and highways; to prescribe powers and duties of certain state agencies and officials; to promulgate rules; to provide remedies and prescribe penalties for violations; and to repeal acts and parts of acts," by amending section 4 (MCL 252.304), as amended by 2006 PA 448.

The People of the State of Michigan enact:

252.304 Size, lighting, and spacing of signs and sign structures; regulation and control; exceptions.

Sec. 4. This act regulates and controls the size, lighting, and spacing of signs and sign structures in adjacent areas and occupies the whole field of that regulation and control except for the following:

(a) A county, city, village, township, or charter township may enact ordinances to regulate and control the size, lighting, and spacing of signs and sign structures but shall not permit a sign or sign structure that is otherwise prohibited by this act or require or cause the removal of lawfully erected signs or sign structures subject to this act without the payment of just compensation. A sign owner shall apply for an annual permit pursuant to section 6 for each sign to be maintained or to be erected within that county, city, village, charter township, or township. A sign erected or maintained within that county, city, village, township, or charter township shall also comply with all applicable provisions of this act.

(b) A county, city, village, charter township, or township vested by law with authority to enact zoning codes has full authority under its own zoning codes or ordinances to establish commercial or industrial areas and the actions of a county, city, village, charter township, or township in so doing shall be accepted for the purposes of this act. However, except as

provided in subdivision (a), zoning which is not part of a comprehensive zoning plan and is taken primarily to permit outdoor advertising structures shall not be accepted for purposes of this act. A zone in which limited commercial or industrial activities are permitted as incidental to other primary land uses is not a commercial or industrial zone for outdoor advertising control purposes.

(c) An ordinance or code of a city, village, township, or charter township that existed on March 31, 1972 and that prohibits signs or sign structures is not made void by this act.

(d) A county ordinance that regulates and controls the size, lighting, and spacing of signs and sign structures shall only apply in a township within the county if the township has not enacted an ordinance to regulate and control the size, lighting, and spacing of signs and sign structures.

(e) A county, on its own initiative or at the request of a city, village, township, or charter township within that county, may prepare a model ordinance as described in subdivision (a). A city, village, township, or charter township within that county may adopt the model ordinance.

This act is ordered to take immediate effect.
Approved April 8, 2008.
Filed with Secretary of State April 8, 2008.

[No. 94]

(SB 47)

AN ACT to provide for the establishment of a water improvement tax increment finance authority; to prescribe the powers and duties of the authority; to correct and prevent deterioration in water resources; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans and development areas; to promote water resource improvement; to create a board; to prescribe the powers and duties of the board; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to prescribe powers and duties of certain state officials; to provide for rule promulgation; and to provide for enforcement of the act.

The People of the State of Michigan enact:

125.1771 Short title.

Sec. 1. This act shall be known and may be cited as the "water resource improvement tax increment finance authority act".

125.1772 Definitions; A to M.

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 the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a water resource improvement tax increment finance authority created under this act.

(d) "Board" means the governing body of an authority.

(e) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the development area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in section 3(d), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(f) "Chief executive officer" means the mayor or city manager of a city, the president or village manager of a village, or the supervisor of a township.

(g) "Development area" means that area described in section 5 to which a development plan is applicable.

(h) "Development plan" means that information and those requirements for a development area set forth in section 22.

(i) "Development program" means the implementation of the development plan.

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

(k) "Governing body" or "governing body of a municipality" means the elected body of a municipality having legislative powers.

(*l*) "Initial assessed value" means the assessed value of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in section 3(d).

(m) "Inland lake" means a natural or artificial lake, pond, or impoundment. Inland lake does not include the Great Lakes, Lake St. Clair, or a lake or pond that has a surface area of less than 5 acres.

(n) "Land use plan" means a plan prepared under former 1921 PA 207, or a site plan under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3102.

(o) "Municipality" means a city, village, or township.

125.1773 Definitions; O to W.

Sec. 3. As used in this act:

(a) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(b) "Parcel" means an identifiable unit of land that is treated as separate for valuation or zoning purposes.

(c) "Public facility" means a street, and any improvements to a street, including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, or building, including access routes designed and dedicated to use by the public generally, or used by a public agency, that is related to access to inland lakes or a water resource improvement, or means a water resource improvement. Public facility includes 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, if the improvement complies 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.

(d) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, or 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. 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.

(e) "State fiscal year" means the annual period commencing October 1 of each year.

(f) "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 real and personal property in the development area. Tax increment revenues do not include any of the following:

(*i*) Taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*ii*) Taxes levied by local or intermediate school districts.

(*iii*) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to the ad valorem property taxes.

(*iv*) 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 or specific local taxes attributable to the ad valorem property taxes.

(*v*) Ad valorem property taxes exempted from capture under section 15(5) or specific local taxes attributable to the ad valorem property taxes.

(*vi*) 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 taxes attributable to those ad valorem property taxes.

(g) "Water resource improvement" means enhancement of water quality and water dependent natural resources, including, but not limited to, the following:

(*i*) The elimination of the causes and the proliferation of aquatic nuisance species, as defined in section 3101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3101. For purposes of this act, water resources improvement does not include chemical treatment of waters for aquatic nuisance control.

(*ii*) Sewer systems that service existing structures that have failing on-site disposal systems.

(*iii*) Storm water systems that service existing infrastructure.

(h) "Water resource improvement district" or "district" means 1 or both of the following:

(*i*) An inland body of water and land that is up to 1 mile from the shoreline of an inland lake that contains 1 or more public access points.

(*ii*) An inland body of water and parcels of land that are contiguous to the shoreline of an inland lake that does not contain a public access point.

125.1774 Establishment of multiple authorities; powers.

Sec. 4. (1) Except as otherwise provided in this subsection, a municipality may establish multiple authorities. A parcel of property shall not be included in more than 1 authority created under this act.

(2) An authority is a public body corporate that may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out its purpose. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority.

125.1775 Intent to create and provide for operation of authority within water resource improvement district; resolution of intent; notice of public hearing; adoption of ordinance; filing; publication; alteration or amendment of boundaries; agreement with adjoining municipality.

Sec. 5. (1) If the governing body of a municipality determines that it is necessary for the best interests of the public to promote water resource improvement or access to inland lakes, or both, in a water resource improvement district, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority within the boundaries of a water resource improvement district.

(2) In the resolution of intent, the governing body shall set a date for a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the development area. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice does not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed development area not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing and shall describe the boundaries of the proposed development area. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed development area. The governing body of the municipality shall not incorporate land into the development area not included in the description contained in the notice of public hearing, but it may eliminate described lands from the development area in the final determination of the boundaries.

(3) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the development area within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body of the municipality may alter or amend the boundaries of the development area to include or exclude lands from the development area in the same manner as adopting the ordinance creating the authority.

(5) A municipality that has created an authority may enter into an agreement with an adjoining municipality that has created an authority to jointly operate and administer those authorities under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

125.1776 Annexation or consolidation.

Sec. 6. If a development area is part of an area annexed to or consolidated with another municipality, the authority managing that development area shall become an authority of the annexing or consolidated municipality. Obligations of that authority incurred under a development or tax increment plan, agreements related to a development or tax increment plan, and bonds issued under this act shall remain in effect following the annexation or consolidation.

125.1777 Board; membership; qualifications; terms; appointment to fill vacancy; compensation; oath of office; proceedings and rules subject to open meetings act; meetings; removal of board member; publication of expense items; availability of financial records; writings subject to freedom of information act.

Sec. 7. (1) An authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality or his or her designee and not less than 5 or more than 9 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the development area. At least 1 of the members shall be a resident of the development area or of an area within 1/2 mile of any part of the development area. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. After the initial appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The proceedings and rules of the board are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

125.1778 Director; compensation; service; oath; bond; duties; acting director; treasurer; secretary; legal counsel; duties; other personnel.

Sec. 8. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure

of the board. A member of the board is not eligible to hold the position of director. Before beginning his or her duties, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the sum determined in the ordinance establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall provide to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning his or her duties, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish bond in an amount prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

125.1779 Participation of employees in municipal retirement and insurance programs; employees not civil service employees.

Sec. 9. The employees of an authority shall be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees except that the employees of an authority are not civil service employees.

125.1780 Board; powers; duties; preparation of water resource management plan; consultation with certain entities.

Sec. 10. (1) The board may do any of the following:

(a) Prepare an analysis of water resource improvement and access to inland lakes issues taking place in the development area.

(b) Study and analyze the need for water resource improvements and access to inland lakes upon the development area.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility that may be necessary or appropriate to the execution of a plan that, in the opinion of the board, aids in water resource improvement or access to inland lakes in the development area. The board is encouraged to develop a plan that conserves the natural features, reduces impervious surfaces, and uses landscaping and natural features to reflect the predevelopment site.

(d) Plan, propose, and implement an improvement to a public facility within the development area 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.

(e) Develop long-range plans for water resource improvement and access to inland lakes within the district.

(f) Implement any plan of development for water resource improvement and access to inland lakes in the development area necessary to achieve the purposes of this act in accordance with the powers of the authority granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, clear, improve, maintain, and repair any public facility, building, and any necessary or desirable appurtenances to those buildings and operate a water resource improvement, as determined by the authority to be reasonably necessary to achieve the purposes of this act, within the development area for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(j) Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control or any part of the facility, building, or property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease, in whole or in part, any facility, building, or property under its control.

(*l*) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

(2) The board shall prepare a water resource management plan in consultation with the department of environmental quality, the department of natural resources, or any other entity with expertise in water quality management and invasive species management.

125.1781 Authority as instrumentality of political subdivision.

Sec. 11. The authority is an instrumentality of a political subdivision for purposes of 1972 PA 227, MCL 213.321 to 213.332.

125.1782 Financing sources; disposition of money received.

Sec. 12. (1) The activities of the authority shall be financed from 1 or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Money borrowed and to be repaid as authorized by sections 13 and 14.

(c) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(d) Proceeds of a tax increment financing plan established under sections 15 to 17.

(e) Proceeds from a special assessment district created as provided by law.

(f) Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(2) Money received by the authority and not covered under subsection (1) shall immediately be deposited to the credit of the authority, subject to disbursement under this act. Except as provided in this act, the municipality shall not obligate itself, and shall not be obligated, to pay any sums from public funds, other than money received by the municipality under this section, for or on account of the activities of the authority.

125.1783 Borrowing money and issuing bonds.

Sec. 13. The authority may borrow money and issue its negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

125.1784 Borrowing money and issuing bonds or notes; security; pledge; lien; exemption of bonds or notes from taxation; municipality not liable on bonds and notes of authority; statement; investment; deposit.

Sec. 14. (1) The authority may with approval of the local governing body borrow money and issue its revenue bonds or notes to finance all or part of the costs of water resource improvements in connection with either of the following:

(a) The implementation of a development plan in the development area.

(b) The refund, or refund in advance, of bonds or notes issued under this section.

(2) Any of the following may be financed by the issuance of revenue bonds or notes:

(a) The cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with the implementation of a development plan in the development area.

(b) Any engineering, architectural, legal, accounting, or financial expenses.

(c) The costs necessary or incidental to the borrowing of money.

(d) Interest on the bonds or notes during the period of construction.

(e) A reserve for payment of principal and interest on the bonds or notes.

(f) A reserve for operation and maintenance until sufficient revenues have developed.

(3) The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenues, or income received in connection with the property.

(4) A pledge made by the authority is valid and binding from the time the pledge is made. The money or property pledged by the authority immediately is subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge is valid and binding against parties having claims of any kind in tort, contract, or otherwise, against the authority, whether or not the parties have notice of the lien. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created must be filed or recorded to be enforceable.

(5) Bonds or notes issued under this section are exempt from all taxation in this state, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(6) The municipality is not liable on bonds or notes of the authority issued under this section, and the bonds or notes are not a debt of the municipality. The bonds or notes shall contain on their face a statement to that effect.

(7) The bonds and notes of the authority may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and

received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

125.1785 Tax increment financing plan; preparation and submission; development plan; statement of estimated impact; approval; notice, hearing, and disclosure provisions; modification; exempting taxes from capture; resolution.

Sec. 15. (1) If the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 18, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the program, and shall be in compliance with section 16. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) Approval of the tax increment financing plan shall comply with the notice, hearing, and disclosure provisions of section 21. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(3) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the development area.

(4) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

(5) Not more than 60 days after the public hearing, the governing body in a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. In the event that the governing body levies a separate millage for public library purposes, at the request of the public library board, that separate millage shall be exempt from the capture. The resolution shall take effect when filed with the clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

125.1786 Transmission of tax increment revenues to authority; expenditures; terms; reversion of unused funds; abolishment of plan; conditions; status report on tax increment financing account.

Sec. 16. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority.

(2) The authority shall expend the tax increment revenues received for the development program only under the terms of the tax increment financing plan. Unused funds shall revert

proportionately to the respective taxing bodies. Tax increment revenues shall not be used to circumvent existing property tax limitations. The governing body of the municipality may abolish the tax increment financing plan if it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principal of, and interest on, bonds issued under section 17 have been paid or funds sufficient to make the payment have been segregated.

(3) Annually the authority shall submit to the governing body of the municipality and the state tax commission a report on the status of the tax increment financing account. The report shall include the following:

(a) The amount and source of revenue in the account.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures from the account.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the project area.

(f) The captured assessed value retained by the authority.

(g) The tax increment revenues received.

(h) The number of public facilities developed.

(i) The number of water resource improvements made.

(j) A brief description of each water resource improvement made within the district.

(k) Any additional information the governing body considers necessary.

125.1787 Authorization, issuance, and sale of tax increment bonds.

Sec. 17. (1) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority under this subsection may be secured by any other revenues identified in section 12 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, except as otherwise provided in this section, the full faith and credit of the municipality shall not be pledged to secure bonds issued under this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received under section 15 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality, by majority vote of the members of its governing body, may make a limited tax pledge to support the authority's tax increment bonds or notes or, if authorized by the voters of the municipality, may pledge its unlimited tax full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds or notes.

125.1788 Development plan; contents.

Sec. 18. (1) If a board decides to finance a project in a development area by the use of revenue bonds as authorized in section 13 or tax increment financing as authorized in sections 15, 16, and 17, it shall prepare a development plan.

(2) The development plan shall contain all of the following:

(a) The designation of boundaries of the development area in relation to highways, streets, streams, lakes, other bodies of water, or otherwise.

(b) The location and extent of existing streets and other public facilities within the development area, designating the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the development area.

(c) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(g) A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, or utilities.

(i) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

(*l*) The requirement that amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.

(m) The water resource improvements that will be made in the development area.

(n) Other material that the authority, local public agency, or governing body considers pertinent.

(o) Based on consultation with the affected state and federal authorities, an identification of the permits the board believes necessary to complete the proposed public facility and an explanation of how the proposed public facility will meet the requirements necessary for issuance of each permit.

125.1789 Development plan or tax increment financing plan; adoption of ordinance; notice of public hearing; purpose of public hearing.

Sec. 19. (1) The governing body, before adoption of an ordinance approving a development plan or tax increment financing plan, shall hold a public hearing on the development

plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the development area not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the tax increment financing plan is approved not less than 20 days before the hearing.

(2) Notice of the time and place of hearing on a development plan shall contain all of the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice.

(c) A statement that all aspects of the development plan will be open for discussion at the public hearing.

(d) Other information that the governing body considers appropriate.

(3) At the time set for the hearing, the governing body shall provide an opportunity for interested persons to speak and shall receive and consider communications in writing. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for consideration of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

125.1790 Determination of public purpose; approval or rejection of plan; modifications; considerations.

Sec. 20. The governing body after a public hearing on the development plan or the tax increment financing plan, or both, with notice given under section 19, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall by ordinance approve or reject the plan, or approve it with modification, based on the following considerations:

(a) The findings and recommendations of a development area citizens council, if a development area citizens council was formed.

(b) The plan meets the requirements under section 18(2).

(c) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(d) The development is reasonable and necessary to carry out the purposes of this act.

(e) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(f) The development plan is in reasonable accord with the land use plan of the municipality.

(g) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

(h) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

125.1791 Operation of authority; budget; review by board; submission to governing body; adoption; cost of handling and auditing funds.

Sec. 21. (1) The director of the authority shall submit a budget to the board for the operation of the authority for each fiscal year before the beginning of the fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget shall be submitted to the governing body. The governing body must approve the budget before the board may adopt the budget. Unless authorized by the governing body or this act, funds of the municipality shall not be included in the budget of the authority.

(2) The governing body of the municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which shall be paid annually by the board pursuant to an appropriate item in its budget.

125.1792 Dissolution of authority.

Sec. 22. An authority that has completed the purposes for which it was organized shall be dissolved by ordinance of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

125.1793 Enforcement of act; rules.

Sec. 23. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

125.1794 Prohibition.

Sec. 24. After December 31, 2011, a municipality shall not create an authority or expand the boundaries of a development plan.

This act is ordered to take immediate effect.
Approved April 8, 2008.
Filed with Secretary of State April 8, 2008.

[No. 95]

(SB 105)

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 sections 8511 and 8513 (MCL 600.8511 and 600.8513), section 8511 as amended by 1999 PA 75 and section 8513 as added by 1984 PA 278.

The People of the State of Michigan enact:

600.8511 District court magistrate; jurisdiction and duties.

Sec. 8511. A district court magistrate has the following jurisdiction and duties:

(a) To arraign and sentence upon pleas of guilty or nolo contendere for violations of the following acts or parts of acts, or a local ordinance substantially corresponding to these acts or parts of acts, when authorized by the chief judge of the district court district and if the maximum permissible punishment does not exceed 90 days in jail or a fine, or both:

(*i*) Part 487 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.48701 to 324.48740.

(*ii*) Part 401 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119.

(*iii*) Part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.

(*iv*) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.

(*v*) Motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

(*vi*) Dog law of 1919, 1919 PA 339, MCL 287.261 to 287.290.

(*vii*) Section 703 or 915 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703 and 436.1915.

(*viii*) Part 5 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.501 to 324.511.

(*ix*) Part 89 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8901 to 324.8907.

(*x*) Part 435 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

(*xi*) Part 731 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.73101 to 324.73111.

(*xii*) Chapter LXXXV of the Michigan penal code, 1931 PA 328, MCL 750.546 to 750.552.

(b) To arraign and sentence upon pleas of guilty or nolo contendere for violations of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, except for violations of sections 625 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, when authorized by the chief judge of the district court district and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of sections 625 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.

(c) To arraign and sentence upon pleas of guilty or nolo contendere for violations of part 811 or 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150 and 324.82101 to 324.82160, or a local ordinance substantially corresponding to a provision of part 811 or 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150 and 324.82101 to 324.82160, except for violations of sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129, or a