

HOUSE BILL No. 5393

February 23, 2016, Introduced by Reps. Chang, Pagan, Garrett, Durhal and Irwin and referred to the Committee on Local Government.

A bill to amend 1961 PA 120, entitled

"An act to authorize the development or redevelopment of principal shopping districts and business improvement districts; to permit the creation of certain boards; to provide for the operation of principal shopping districts and business improvement districts; to provide for the creation, operation, and dissolution of business improvement zones; and to authorize the collection of revenue and the bonding of certain local governmental units for the development or redevelopment projects,"

by amending sections 10, 10a, 10c, 10f, 10g, and 10k (MCL 125.990, 125.990a, 125.990c, 125.990f, 125.990g, and 125.990k), as amended by 2013 PA 126.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. As used in this chapter:

2 (a) "Assessable property" means real property in a zone area
3 other than property classified as residential real property under
4 section 34c of the general property tax act, 1893 PA 206, MCL
5 211.34c, or real property exempt from the collection of taxes under

1 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

2 (b) "Assessment" means an assessment imposed under this
3 chapter against assessable property for the benefit of the property
4 owners.

5 (c) "Assessment revenues" means the money collected by a
6 business improvement zone from any assessments, including any
7 interest on the assessments.

8 (d) "Board" means the board of directors of a business
9 improvement zone.

10 (e) "Business improvement zone" means a business improvement
11 zone created under this chapter.

12 (f) "Nonprofit corporation" means a nonprofit corporation
13 organized under the nonprofit corporation act, 1982 PA 162, MCL
14 450.2101 to 450.3192, and which complies with all of the following:

15 (i) The articles of incorporation of the nonprofit corporation
16 provide that the nonprofit corporation may promote a business
17 improvement zone and may also provide management services related
18 to the implementation of a zone plan.

19 (ii) The nonprofit corporation is exempt from federal income
20 tax under section 501(c)(4) or 501(c)(6) of the internal revenue
21 code, 28 USC 501.

22 (g) "Person" means an individual, partnership, corporation,
23 limited liability company, association, or other legal entity.

24 (h) "Project" means any activity for the benefit of property
25 owners authorized by section 10a to enhance the business
26 environment within a zone area.

27 (i) "Property owner" means a person who owns, or an agent

1 authorized in writing by a person who owns, assessable property
2 according to the records of the treasurer of the city or village in
3 which the business improvement zone is located.

4 (j) ~~"10-year"~~ **QUALIFYING** period" means the period in which a
5 business improvement zone is authorized to operate **AND IMPOSE AND**
6 **COLLECT ASSESSMENTS**, beginning on the date that the business
7 improvement zone ~~is created or renewed~~ **ASSESSMENT IMPOSED BY THE**
8 **TREASURER OF THE CITY OR VILLAGE WHO IS COLLECTING THE ASSESSMENT**
9 **UNDER SECTION 10H** and ending 7 **TO** 10 calendar years after that date
10 **AS DETERMINED IN THE PETITION DESCRIBED IN SECTION 10C. THE 10-YEAR**
11 **PERIOD OR QUALIFYING PERIOD OF A BUSINESS IMPROVEMENT ZONE THAT WAS**
12 **CREATED BEFORE THE DATE OF THE AMENDATORY ACT THAT ADDED THIS**
13 **SENTENCE BEGINS ON THE DATE THAT THE FIRST BUSINESS IMPROVEMENT**
14 **ZONE ASSESSMENT BECAME IMPOSED BY THE TREASURER OF THE CITY OR**
15 **VILLAGE WHO IS COLLECTING THE ASSESSMENT UNDER SECTION 10H.**

16 (k) "Zone area" means the area designated in the zone plan as
17 the area to be served by the business improvement zone.

18 (l) "Zone plan" means a set of goals, strategies, objectives,
19 and guidelines for the operation of a business improvement zone, as
20 approved at a meeting of property owners conducted under section
21 10d.

22 Sec. 10a. (1) A business improvement zone is a public body
23 corporate and may do 1 or more of the following for the benefit of
24 property owners located in the business improvement zone:

25 (a) Acquire, through purchase, lease, or gift, construct,
26 develop, improve, maintain, operate, or reconstruct park areas,
27 planting areas, and related facilities within the zone area.

1 (b) Acquire, construct, clean, improve, maintain, reconstruct,
2 or relocate sidewalks, street curbing, street medians, fountains,
3 and lighting within the zone area.

4 (c) Develop and propose lighting standards within the zone
5 area.

6 (d) Acquire, plant, and maintain trees, shrubs, flowers, or
7 other vegetation within the zone area.

8 (e) Provide or contract for security services with other
9 public or private entities and purchase equipment or technology
10 related to security services within the zone area.

11 (f) Promote and sponsor cultural or recreational activities.

12 (g) Engage in economic development activities, including, but
13 not limited to, promotion of business, retail, or industrial
14 development, developer recruitment, business recruitment, business
15 marketing, business retention, public relations efforts, and market
16 research.

17 (h) Engage in other activities with the purpose to enhance the
18 economic prosperity, enjoyment, appearance, image, and safety of
19 the zone area.

20 (i) Acquire by purchase or gift, maintain, or operate real or
21 personal property necessary to implement this chapter.

22 (j) Solicit and accept gifts or grants to further the zone
23 plan.

24 (k) Sue or be sued.

25 (l) Do all other acts and things necessary or convenient to
26 exercise the powers, duties, and jurisdictions of the business
27 improvement zone under this act or other laws that relate to the

1 purposes, powers, duties, and jurisdictions of the business
2 improvement zone.

3 (2) A business improvement zone may contract with a nonprofit
4 corporation or any other public or private entity and may pay a
5 reasonable fee to the nonprofit corporation or other public or
6 private entity for services provided. Two or more business
7 improvement zones may contract with the same nonprofit corporation
8 or public or private entity under this subsection.

9 (3) A business improvement zone has the authority to borrow
10 money in anticipation of the receipt of assessments if all of the
11 following conditions are satisfied:

12 (a) The loan will not be requested or authorized, or will not
13 mature, within 90 days before the expiration of the ~~10-year~~
14 **QUALIFYING** period.

15 (b) The amount of the loan does not exceed 50% of the annual
16 average assessment revenue of the business improvement zone during
17 the previous year or, in the case of a business improvement zone
18 that has been in existence for less than 1 year, the loan does not
19 exceed 25% of the projected annual assessment revenue.

20 (c) The loan repayment period does not extend beyond the ~~10-~~
21 ~~year-~~**QUALIFYING** period.

22 (d) The loan is subject to the revised municipal finance act,
23 2001 PA 34, MCL 141.2101 to 141.2821.

24 (4) The services provided by and projects of a business
25 improvement zone are services and projects of the business
26 improvement zone and are not services, functions, or projects of
27 the municipality in which the business improvement zone is located.

1 The services provided by and projects of a business improvement
2 zone are supplemental to the services, projects, and functions of
3 the city or village in which the business improvement zone is
4 located.

5 (5) The business improvement zone has no other authority than
6 the authority described in this act or authorized by other laws of
7 this state.

8 Sec. 10c. A person may initiate the establishment of a
9 business improvement zone by the delivery of a petition to the
10 clerk of the city or village in which a proposed zone area is
11 located. The petition shall include all of the following:

12 (a) An attached map and description of the geographic
13 boundaries of the zone area sufficient to identify each assessable
14 property included.

15 (b) The signatures of property owners of parcels representing
16 not less than 30% of the property owners within the zone area,
17 weighted as provided in section 10f(2).

18 (c) An attached listing, by tax parcel identification number,
19 of all parcels within the zone area, separately identifying
20 assessable property.

21 (d) An attached zone plan, which shall include all of the
22 following:

23 (i) The proposed initial board of directors for the zone,
24 except for a member of the board of directors who may be appointed
25 by the city or village under section 10g(2).

26 (ii) The method for removal, appointment, and replacement of
27 the board.

1 (iii) A description of projects planned during the ~~10-year~~
2 **QUALIFYING** period, including the scope, nature, and duration of the
3 projects.

4 (iv) An estimate of the total amount of expenditures for
5 projects planned during the ~~10-year~~**QUALIFYING** period.

6 (v) The proposed source or sources of financing for the
7 projects.

8 (vi) If the proposed financing includes assessments, the
9 projected amount or rate of the assessments for each year and the
10 basis upon which the assessments are to be imposed on assessable
11 property.

12 (vii) A plan of dissolution for the business improvement zone.

13 **(viii) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT**
14 **THAT ADDED THIS SUBPARAGRAPH, THE NUMBER OF CALENDAR YEARS IN THE**
15 **QUALIFYING PERIOD, NOT MORE THAN 10 CALENDAR YEARS AND NOT LESS**
16 **THAN 7 CALENDAR YEARS.**

17 (e) A basis for allocating assessments in the zone area,
18 including, but not limited to, assessments based upon taxable value
19 or assessments based upon assessed value.

20 Sec. 10f. (1) All property owners as of the date of the
21 delivery of the petition as provided in section 10c are eligible to
22 participate in the election. The election shall be conducted by
23 mail. The question to be voted on by the property owners is the
24 adoption of the zone plan and the establishment of the business
25 improvement zone, including the identity of the initial board.

26 (2) If the zone plan for the zone area provides a basis for
27 allocating assessments based upon taxable value, the votes of

1 property owners shall be weighted in proportion to the amount that
2 the taxable value of their respective real property for the
3 preceding calendar year bears to the taxable value of all
4 assessable property in the zone area. If the zone plan for the zone
5 area provides for allocation of assessments based upon assessed
6 value, the votes of property owners shall be weighted in proportion
7 to the amount that the assessed value of their respective real
8 property for the preceding calendar year bears to the assessed
9 value of all assessable property in the zone area. If the zone plan
10 for the zone area provides a basis for allocating assessments other
11 than taxable value or assessed value, the votes of property owners
12 shall be weighted in proportion to the amount that the weighted
13 value for their respective real property bears to the total
14 weighted value of all assessable property in the zone area. In no
15 case shall the total number of votes assigned to any 1 property
16 owner be equal to more than 25% of the total number of votes
17 eligible to be cast in the election.

18 (3) A zone plan and the proposal for the establishment of a
19 business improvement zone, including the identity of the initial
20 board, shall be considered adopted upon the approval of more than
21 60% of the property owners voting in the election, with votes
22 weighted as provided in subsection (2).

23 (4) Upon acceptance or rejection of a business improvement
24 zone and zone plan by the property owners, the resulting business
25 improvement zone or the person filing the petition under section
26 10c shall, at the request of the city or village, reimburse the
27 city or village for all or a portion of the reasonable expenses

1 incurred to comply with this chapter. The governing body of the
2 city or village may forgive and choose not to collect all or a
3 portion of the reasonable expenses incurred to comply with this
4 chapter.

5 (5) Adoption of a business improvement zone and zone plan
6 under this section authorizes the creation of the business
7 improvement zone and the implementation of the zone plan for the
8 ~~10-year~~ **QUALIFYING** period.

9 (6) Adoption of a business improvement zone and zone plan
10 under this section and the creation of the business improvement
11 zone does not relieve the business improvement zone from following,
12 or does not waive any rights of the city or village to enforce, any
13 applicable laws, statutes, or ordinances. A business improvement
14 zone created under this chapter shall comply with all applicable
15 state and federal laws.

16 (7) To the extent not protected by the immunity conferred by
17 1964 PA 170, MCL 691.1401 to 691.1419, a city or village that
18 approves a business improvement zone within its boundaries is
19 immune from civil or administrative liability arising from any
20 actions of that business improvement zone.

21 Sec. 10g. (1) The day-to-day activities of the business
22 improvement zone and implementation of the zone plan shall be
23 managed by a board of directors.

24 (2) The board shall consist of an odd number of directors and
25 shall not be smaller than 5 and not larger than 15 in number. The
26 board may include 1 director nominated by the chief executive of
27 the city or village and confirmed by the governing body of the city

1 or village. A nomination not disapproved by a governing body within
2 60 days shall stand confirmed.

3 (3) The duties and responsibilities of the board shall be
4 prescribed in the zone plan and to the extent applicable shall
5 include all of the following duties and responsibilities:

6 (a) Developing administrative procedures relating to the
7 implementation of the zone plan.

8 (b) Recommending amendments to the zone plan.

9 (c) Scheduling and conducting an annual meeting of the
10 property owners.

11 (d) Developing a zone plan for the next ~~10-year~~ **QUALIFYING**
12 period.

13 (4) Members of the board shall serve without compensation.
14 However, members of the board may be reimbursed for their actual
15 and necessary expenses incurred in the performance of their
16 official duties as members of the board.

17 Sec. 10k. (1) Prior to the expiration of any ~~10-year~~
18 **QUALIFYING** period, the board shall notify the property owners
19 within the business improvement zone of a special meeting by first-
20 class mail at least 14 days prior to the scheduled date of the
21 meeting to approve a new zone plan for the next ~~10-year~~ **QUALIFYING**
22 period. Notice under this section shall include the specific
23 location, scheduled date, and time of the meeting.

24 (2) Approval of the new zone plan at the special meeting by
25 more than 60% of the property owners of assessable property voting
26 at that meeting, with the vote of the property owners being
27 weighted in accordance with section 10f(2), constitutes

1 reauthorization of the business improvement zone for an additional
2 ~~10-year-QUALIFYING~~ period, commencing as of the expiration of the
3 ~~10-year-QUALIFYING~~ period then in effect. If the new zone plan
4 reflects any new assessment, or reflects an extension of any
5 assessment beyond the period previously approved by the city or
6 village in which the business improvement zone is located, the new
7 or extended assessment shall be effective only with the approval of
8 the governing body of the city or village.