

# HOUSE BILL No. 4952

September 14, 2017, Introduced by Rep. Hornberger and referred to the Committee on Tax Policy.

A bill to amend 1964 PA 284, entitled "City income tax act," by amending sections 2a, 3, 3a, 3b, and 3c of chapter 1 and sections 11, 13, 15, 16, and 51 of chapter 2 (MCL 141.502a, 141.503, 141.503a, 141.503b, 141.503c, 141.611, 141.613, 141.615, 141.616, and 141.651), section 2a of chapter 1 as added by 1995 PA 234, section 3 of chapter 1 as amended by 2012 PA 394, section 3a of chapter 1 as amended and section 3b of chapter 1 as added by 1987 PA 223, section 3c of chapter 1 as amended by 2011 PA 56, section 11 of chapter 2 as amended by 1995 PA 233, section 13 of chapter 2 as amended by 1988 PA 216, and section 51 of chapter 2 as amended by 1982 PA 124.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

CHAPTER 1

1

1           Sec. 2a. **(1)** Beginning January 1, 1995, a city shall not  
2 impose an excise tax on income under this act unless at least 1 of  
3 the following applies:

4           (a) The city had in effect on January 1, 1995 an excise tax on  
5 income under this act.

6           (b) The imposition of an excise tax on income under this act  
7 is approved by the qualified and registered electors of the city.

8           **(2) BEGINNING JANUARY 1, 2019, A CITY SHALL NOT IMPOSE AN**  
9 **EXCISE TAX ON INCOME UNDER THIS ACT ON NONRESIDENT INDIVIDUALS.**

10           Sec. 3. (1) The governing body of a city, by a lawfully  
11 adopted ordinance that incorporates by reference the uniform city  
12 income tax ordinance set forth in chapter 2, may levy, assess, and  
13 collect an excise tax on income as provided in the ordinance. The  
14 ordinance shall state the rate of the tax which shall be the rate  
15 authorized by 1 of the following:

16           (a) The uniform city income tax ordinance under section 11 of  
17 chapter 2.

18           (b) Subsection (2).

19           (c) Section 3a, 3b, or 3c of this chapter.

20           (2) In a city with a population of more than 600,000, the  
21 governing body may levy and collect a tax at a rate to be  
22 determined from time to time, that rate to be not more than 2% on  
23 corporations and the following maximum tax rates on resident  
24 individuals and nonresident individuals for the following years:

25           (a) Before July 1, 1999, 3.00% on resident individuals and  
26 1.50% on nonresident individuals.

27           (b) Beginning July 1, 1999 and each July 1 after 1999 through

1 July 1, 2012, except for 2008 and 2009, the maximum tax rate under  
2 this subsection on resident individuals shall be reduced by 0.1  
3 until the rate on resident individuals is 2.0%. The tax rate  
4 imposed on nonresident individuals shall be 50% of the tax rate  
5 imposed on resident individuals each year.

6 (c) Notwithstanding any other provision of this section, for  
7 the 2008 and 2009 calendar years, the city shall impose the same  
8 tax rate on resident individuals and nonresident individuals as the  
9 city had imposed for the 2007 calendar year.

10 (d) Except as otherwise provided under subdivision (e),  
11 beginning January 1, 2013 and each year after 2013, a rate of not  
12 more than 2.40% on resident individuals and, **THROUGH DECEMBER 31,**  
13 **2018,** 1.20% on nonresident individuals.

14 (e) Beginning January 1 of the year immediately succeeding the  
15 year that all bonds, obligations, and other evidence of  
16 indebtedness issued by a lighting authority have been fully paid  
17 and each year thereafter, a rate of not more than 2.20% on resident  
18 individuals and, **THROUGH DECEMBER 31, 2018,** 1.10% on nonresident  
19 individuals.

20 (3) Notwithstanding any other provision of law or any  
21 ordinance of the city to the contrary, a city that forms a lighting  
22 authority shall deposit an amount equal to the sum of the revenue  
23 collected from 0.2% of the rate levied on resident individuals  
24 pursuant to subsection (2) (d) and 0.1% of the rate levied on  
25 nonresident individuals pursuant to subsection (2) (d) directly into  
26 the budget of the city's police department and use it exclusively  
27 to retain or hire police officers. The transfer and use of the

1 revenue as provided under this subsection shall continue until all  
2 bonds, obligations, or other evidence of indebtedness issued by a  
3 lighting authority have been fully paid and revenue is no longer  
4 being pledged from taxes levied under the city utility users tax  
5 act, 1990 PA 100, MCL 141.1151 to 141.1177, to the lighting  
6 authority. As used in this subsection, "lighting authority" means a  
7 lighting authority incorporated under the municipal lighting  
8 authority act.

9 (4) The governing body of a city may adopt the uniform city  
10 income tax ordinance with the alternative sections as set forth in  
11 chapter 3 instead of the similarly numbered sections as set forth  
12 in chapter 2. The uniform city income tax ordinance may be lawfully  
13 adopted or rescinded by the governing body at any time. The  
14 adoption of an ordinance is effective on and after January 1 or  
15 July 1 following adoption of the ordinance, as specified in the  
16 ordinance, but an ordinance shall not become effective earlier than  
17 45 days after adoption or until approved by the electors if a  
18 referendum petition is filed as authorized in this act or a  
19 referendum is otherwise required. The rescission of an ordinance  
20 shall become effective on the following December 31. The ordinance  
21 may be rescinded at any time by the governing body in the same  
22 manner in which it was adopted and with appropriate enforcement,  
23 collection, and refund provisions with respect to liabilities  
24 incurred prior to the effective date of the rescission of the  
25 ordinance. The ordinance shall not be amended except as provided by  
26 the legislature. A city may amend the ordinance to change the tax  
27 rate to a rate authorized by this act.

1           (5) Petitions for a referendum election on the question of  
2 adopting an ordinance adopted by the governing body may be filed  
3 with the city clerk not later than the sixth Monday following the  
4 adoption of the ordinance. The petitions shall be signed by a  
5 number of registered electors of the city equal to at least 10%,  
6 but not more than 20%, of the registered electors of the city  
7 voting in the last general municipal election prior to the adoption  
8 of the ordinance by the governing body. If proper petitions are  
9 filed, the question of adopting the ordinance shall be submitted by  
10 the governing body to the city electors at the next primary or  
11 general election or at a special election called for the purpose,  
12 in any case held not less than 45 days nor more than 90 days after  
13 the clerk has reported the filing of the referendum petition to the  
14 city's governing body. The checking of names on the petitions, the  
15 counting, canvassing, and return of the votes on the question, and  
16 other procedures for the election shall be as provided by law or  
17 charter. Upon a favorable vote of the city electors, the ordinance  
18 shall be effective as specified in the ordinance which may be  
19 amended by the governing body of the city following the election to  
20 specify July 1 or January 1 as the effective date of the ordinance,  
21 if the effective date originally specified in the ordinance is  
22 considered impractical or inconvenient for any reason. The  
23 provisions in this section for a referendum election, and for  
24 delaying the effective date of the ordinance if petitions for a  
25 referendum are filed, are not applicable to a city that on January  
26 1, 1964 had in effect a valid ordinance levying and imposing an  
27 excise tax levied on or measured by income. Notwithstanding any

1 other provision of this act, if an ordinance becomes effective on  
2 any date other than January 1, each tax year shall end on December  
3 31, and the provisions of the ordinance based on a full tax year  
4 are modified accordingly to be applicable to the partial tax year.

5       Sec. 3a. (1) The specific rates to be levied by a city on  
6 corporations, resident individuals, and, **THROUGH DECEMBER 31, 2018,**  
7 nonresident individuals shall be established within the applicable  
8 limitations allowed under this section and section 3 of this  
9 chapter in the ordinance which otherwise incorporates by reference  
10 the uniform city income tax ordinance set forth in chapter 2.

11       (2) The governing body of a city with a population of less  
12 than 1,000,000 persons may levy, assess, and collect an excise tax  
13 on income earned and received at a rate of not more than 2% on  
14 corporations, not more than 2% on resident individuals, and,  
15 **THROUGH DECEMBER 31, 2018,** not more than 50% of the rate imposed on  
16 resident individuals on nonresident individuals if approved by a  
17 majority of the qualified electors of the city voting thereon  
18 before November 15, 1988, and if all of the following occurred in  
19 the calendar year immediately preceding the calendar year in which  
20 the increased rates allowed by this subsection initially would  
21 apply:

22       (a) The city levied more than 22 mills for city purposes and  
23 for payment of judgments ordered by a court of competent  
24 jurisdiction.

25       (b) More than 65 mills were levied in the city for all  
26 purposes.

27       (c) The city levied a tax pursuant to this act.

1           (3) Any increase in the tax rate permitted by this section  
2 shall not become effective until the governing body of the city, by  
3 resolution, provides for securing the services of a financial  
4 management consultant. The financial management consultant shall be  
5 selected by the mayor with the approval of the local emergency  
6 financial assistance loan board created under ~~Act No. 243 of the~~  
7 ~~Public Acts of 1980, as amended, being sections 141.931 to 141.942~~  
8 ~~of the Michigan Compiled Laws.~~ **THE EMERGENCY MUNICIPAL LOAN ACT,**  
9 **1980 PA 243, MCL 141.931 TO 141.942.** The resolution shall further  
10 provide that the financial management consultant shall be paid from  
11 city funds. The duties of the financial management consultant shall  
12 be to monitor the fiscal condition of the city, to report the  
13 findings of this monitoring to the local governing body, the mayor,  
14 and the local emergency financial assistance loan board, and to  
15 provide financial management technical assistance to the city. The  
16 local emergency financial assistance loan board shall determine the  
17 form of monitoring and the frequency of reporting. The financial  
18 management consultant shall have full access to all fiscal and  
19 other records of the city. The services of a financial management  
20 consultant may be terminated subject to the approval of the local  
21 emergency financial assistance loan board at such time as  
22 improvement in the financial condition of the city warrants this  
23 action. The local emergency financial assistance loan board may  
24 make recommendations to the legislature that will assist in the  
25 attainment of further fiscal improvement for the city.

26           Sec. 3b. A city that levied the tax authorized by this act  
27 before ~~the effective date of this section~~ **DECEMBER 28, 1987** may

1 amend the ordinance to increase the rate to an annual tax of not  
2 more than 1.4% on corporations and resident individuals and,  
3 **THROUGH DECEMBER 31, 2018**, not more than 0.7% on nonresident  
4 individuals. The increase in the tax authorized by this section  
5 shall be levied for not longer than 13 years as provided in the  
6 ballot proposal submitted to the electors. An amendment to the city  
7 income tax ordinance under this section is not effective unless the  
8 amendment is approved before July 1, 1988 by a majority vote of the  
9 registered and qualified electors of that city voting on the  
10 proposition. This section applies only to a city that has a  
11 population of more than 50,000 and that, within 6 years before the  
12 approval of the amendment authorized by this section, annexes to  
13 the city an area containing more than 20 square miles.

14       Sec. 3c. A city that levied the tax authorized by this act  
15 before March 30, 1989 may amend the ordinance to increase the rate  
16 to an annual tax of not more than 1-1/2% on corporations and  
17 resident individuals and, **THROUGH DECEMBER 31, 2018**, not more than  
18 3/4% on nonresident individuals, but not more than 1/2 of the tax  
19 rate imposed on resident individuals. An amendment to the city  
20 income tax ordinance under this section is not effective unless the  
21 amendment is approved by a majority of the qualified electors  
22 voting on the question. Before November 10, 1989, an amendment  
23 under this section shall not be placed before the voters for  
24 approval more than once in any 12-month period. This section  
25 applies only to a city with a population of more than 140,000 and  
26 less than 600,000 or a city with a population of more than 65,000  
27 and less than 100,000 in a county with a population less than



1 300,000.

2 CHAPTER 2

3 Sec. 11. Subject to the exclusions, adjustments, exemptions,  
4 and deductions herein provided, an annual tax of 1% on corporations  
5 and resident individuals and, **THROUGH DECEMBER 31, 2018**, of 1/2% on  
6 nonresident individuals for general revenue purposes and the  
7 purposes provided for in sections 11a and 11b is hereby imposed as  
8 an excise on income earned and received on and after the effective  
9 date of this ordinance. However, if the governing body of the city  
10 adopts a resolution to impose the tax at a lower rate, the tax is  
11 hereby imposed at that lower rate. If the tax is imposed at a lower  
12 rate, the rate on nonresident individuals shall not exceed 1/2 of  
13 the rate on corporations and resident individuals.

14 Sec. 13. ~~The~~**THROUGH DECEMBER 31, 2018, THE** tax shall apply on  
15 the following types of income of a nonresident individual to the  
16 same extent and on the same basis that the income is subject to  
17 taxation under the federal internal revenue code:

18 (a) On a salary, bonus, wage, commission, and other  
19 compensation for services rendered as an employee for work done or  
20 services performed in the city. Income that the nonresident  
21 taxpayer receives as the result of disability and after exhausting  
22 all vacation pay, holiday pay, and sick pay is not compensation for  
23 services rendered as an employee for work done or services  
24 performed in the city. Vacation pay, holiday pay, sick pay and a  
25 bonus paid by the employer are considered to have the same tax  
26 situs as the work assignment or work location and are taxable on  
27 the same ratio as the normal earnings of the employee for work

1 actually done or services actually performed.

2 (b) On a distributive share of the net profits of a  
3 nonresident owner of an unincorporated business, profession,  
4 enterprise, undertaking, or other activity, as a result of work  
5 done, services rendered, and other business activities conducted in  
6 the city.

7 (c) On capital gains less capital losses from sales of, and on  
8 the net profits from rentals of, real and tangible personal  
9 property, if the capital gains arise from property located in the  
10 city.

11 Sec. 15. An unincorporated business, profession or other  
12 activity conducted by 1 or more persons subject to the tax as  
13 either a sole proprietorship or partnership shall not be taxable as  
14 such. The persons carrying on the unincorporated business,  
15 profession or other activity are liable for income tax only in  
16 their separate and individual capacities and on the following  
17 bases:

18 (a) A resident proprietor or partner is taxable upon his  
19 entire distributive share of the net profits of the activity  
20 regardless of where the activity is conducted.

21 (b) ~~A~~**THROUGH DECEMBER 31, 2018, A** nonresident proprietor or  
22 partner is taxable only upon his distributive share of the portion  
23 of the net profits of the activity which is attributable to the  
24 city under the allocation methods provided in this ordinance.

25 (c) In the hands of a proprietor or partner of an  
26 unincorporated activity, the character of any item of income  
27 taxable under this ordinance is determined as if such item were

1 realized by the individual proprietor or partner directly from the  
2 source from which it is realized by the unincorporated activity. In  
3 computing his taxable income for a taxable year, a person who is  
4 required to file a return shall include therein his taxable  
5 distributive share of the net profits for any partnership year  
6 ending within or with his taxable year.

7       Sec. 16. An unincorporated business, profession or other  
8 activity owned by 2 or more persons shall file an annual  
9 information return setting forth:

10       (a) The entire net profit for the period covered by the return  
11 and the taxable portion of the net profit attributable to the city.

12       (b) The names and addresses of the owners of the  
13 unincorporated activity and each owner's taxable distributive share  
14 of the total net profit and each nonresident owner's share of the  
15 ~~taxable~~ net profit attributable to the city.

16       Sec. 51. (1) An employer doing business or maintaining an  
17 establishment within the city shall withhold from each payment to  
18 the employer's employees on and after the effective date of this  
19 ordinance the tax on their compensation subject to the tax, after  
20 giving effect to exemptions, as follows:

21       (a) Residents.

22       (i) At a rate equal to the rate set by ordinance to be levied  
23 against resident individuals under this ordinance, but not to  
24 exceed 3%, of all compensation paid to the employee who is a  
25 resident of the city, if the employee is not subject to withholding  
26 in any other city levying the tax.

27       (ii) At a rate equal to the difference in the percentage rate

1 of tax on resident individuals as set by ordinance to be levied  
2 under this ordinance less the percentage rate of tax levied by any  
3 other city in which the employee works, on all compensation earned  
4 by the resident in another city.

5 (b) ~~Nonresidents.~~ **THROUGH DECEMBER 31, 2018, NONRESIDENTS.** At  
6 a rate equal to the rate set by ordinance to be levied under this  
7 ordinance on nonresidents but not to exceed 50% of the percentage  
8 rate imposed on resident individuals of the compensation paid to  
9 the employee for work done or services performed in the city  
10 designated by the employee as the employee's predominant place of  
11 employment. The withholding rate shall be applied to the percentage  
12 of the employee's total compensation equal to the employee's  
13 estimated percentage of work to be done or services to be performed  
14 in the city for that employer, but no withholding shall be required  
15 if the estimated percentage of work is less than 25%.

16 (2) An employer withholding the tax is deemed to hold the tax  
17 as a trustee for the city.

18 (3) An employer who is required to withhold and who fails or  
19 refuses to deduct and withhold is liable for the payment of the  
20 amount required to be withheld. The liability shall be discharged  
21 upon payment of the tax by the employee but the employer is not  
22 relieved of penalties and interest provided in this ordinance for  
23 this failure or refusal.