

HOUSE BILL No. 4761

May 3, 1989, Introduced by Reps. Bennane, Pridnia, Weeks,
DeMars, Allen, Harrison, Emmons, Sofio and Niederstadt and referred
to the Committee on Public Health.

A bill to amend Act No. 368 of the Public Acts of 1978,
entitled as amended

"Public health code,"

as amended, being sections 333.1101 to 333.25211 of the Michigan
Compiled Laws, by adding part 139.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 368 of the Public Acts of 1978, as
2 amended, being sections 333.1101 to 333.25211 of the Michigan
3 Compiled Laws, is amended by adding part 139 to read as follows:

4 PART 139. MOSQUITO CONTROL

5 SEC. 13901. (1) AS USED IN THIS PART:

6 (A) "AUTHORITY" MEANS A PEST MANAGEMENT AUTHORITY CREATED
7 PURSUANT TO THIS PART.

8 (B) "BOARD" MEANS THE PEST MANAGEMENT BOARD OF AN AUTHORITY
9 CREATED PURSUANT TO THIS PART.

1 (C) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, CITY,
2 VILLAGE, OR TOWNSHIP.

3 (D) "PEST" MEANS A MOSQUITO, GYPSY MOTH, OR OTHER INSECT
4 DETERMINED BY AN AUTHORITY TO BE CAUSING HARM TO THE PUBLIC
5 HEALTH, SAFETY, OR WELFARE, OR THE ENVIRONMENT, OR PROPERTY
6 WITHIN THE BOUNDARIES OF THE AUTHORITY.

7 (E) "TECHNICAL ADVISORY COMMITTEE" MEANS THE TECHNICAL
8 ADVISORY COMMITTEE APPOINTED BY THE DIRECTOR PURSUANT TO SECTION
9 13921(3).

10 (2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND
11 PRINCIPLES OF CONSTRUCTION APPLICABLE TO THIS PART.

12 SEC. 13903. AN AUTHORITY MAY BE CREATED WITHIN A LOCAL UNIT
13 OF GOVERNMENT.

14 SEC. 13905. (1) THE COUNTY BOARD OF COMMISSIONERS OF THE
15 COUNTY IN WHICH A PROPOSED AUTHORITY IS LOCATED, UPON RECEIPT OF
16 A PETITION DESCRIBING THE BOUNDARIES OF THE PROPOSED AUTHORITY
17 AND SIGNED BY AT LEAST 8% OF THE REGISTERED VOTERS WITHIN THE
18 BOUNDARIES OF THE PROPOSED AUTHORITY WHO CAST VOTES FOR GOVERNOR
19 IN THE LAST GENERAL ELECTION WITHIN THE AUTHORITY, OR UPON
20 RECEIPT OF A PETITION ADOPTED BY RESOLUTION OF THE GOVERNING
21 BODIES OF 2 OR MORE LOCAL UNITS OF GOVERNMENT WITHIN THE BOUNDA-
22 RIES OF THE PROPOSED AUTHORITY, SHALL HOLD A HEARING ON THE
23 PETITION. THE HEARING SHALL BE HELD IN COMPLIANCE WITH THE OPEN
24 MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976, BEING SEC-
25 TIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS. PUBLIC
26 NOTICE OF THE TIME, DATE, AND PLACE OF THE HEARING SHALL BE GIVEN
27 IN THE MANNER REQUIRED BY THAT ACT. AT OR FOLLOWING THE HEARING

1 HELD UNDER THIS SUBSECTION, IF THE COUNTY BOARD OF COMMISSIONERS
2 IS SATISFIED THAT AN AUTHORITY IS NEEDED, IT SHALL CREATE OR DEL-
3 EGATE TO A COUNTY AGENCY THE RESPONSIBILITY OF CREATING AN
4 AUTHORITY AND SET THE BOUNDARIES OR PROVIDE FOR THE SETTING FORTH
5 OF BOUNDARIES OF THE AUTHORITY.

6 (2) THIS PART SHALL NOT PRECLUDE A LOCAL UNIT OF GOVERNMENT
7 FROM DEVELOPING A PEST MANAGEMENT PROGRAM WITHIN ITS BOUNDARIES
8 UNDER THE PROVISIONS OF THE GENERAL POWERS OF THAT LOCAL UNIT OF
9 GOVERNMENT.

10 (3) A LOCAL UNIT OF GOVERNMENT OPERATING A PEST MANAGEMENT
11 PROGRAM ON THE EFFECTIVE DATE OF THIS PART SHALL NOT BE INCLUDED
12 WITHIN AN AUTHORITY UNDER THIS SECTION, IF THE GOVERNING BODY OF
13 THE LOCAL UNIT OF GOVERNMENT SENDS NOTICE TO THE COUNTY BOARD OF
14 COMMISSIONERS OF ITS INTENT NOT TO BE INCLUDED WITHIN THE
15 AUTHORITY.

16 (4) IF 2 OR MORE ADJACENT COUNTIES CREATE AUTHORITIES, THE
17 COUNTY BOARD OF COMMISSIONERS OF THOSE COUNTIES MAY, BY WRITTEN
18 CONTRACT, ARRANGE FOR THE CONSOLIDATION OF THOSE AUTHORITIES BY
19 POOLING MANAGEMENT FUNDS, APPORTIONING COSTS, AND COOPERATING IN
20 THE USE OF EQUIPMENT AND PERSONNEL FOR ENGAGING JOINTLY IN PEST
21 MANAGEMENT.

22 (5) IF AN AUTHORITY IS LOCATED OR IS TO BE LOCATED ENTIRELY
23 WITHIN A SINGLE COUNTY, THE COUNTY BOARD OF COMMISSIONERS MAY
24 ASSIGN THE RESPONSIBILITY FOR ORGANIZING AND OPERATING THE
25 AUTHORITY TO AN EXISTING COUNTY AGENCY.

26 SEC. 13907. (1) WITHIN 30 DAYS AFTER CREATION OF AN
27 AUTHORITY, THE GOVERNING BOARD FOR THE AUTHORITY SHALL BE

1 APPOINTED PURSUANT TO SUBSECTION (2). HOWEVER, IF A COUNTY
2 AGENCY IS DESIGNATED PURSUANT TO SECTION 13905(5), THE DESIGNATED
3 AGENCY SHALL ASSUME THE POWERS, DUTIES, FUNCTIONS, AND RESPONSIBILITIES
4 OF THE BOARD UNDER THIS PART.

5 (2) IF THE AUTHORITY IS SITUATED ENTIRELY IN 1 COUNTY, THE
6 MEMBERS OF THE BOARD SHALL CONSIST OF 5 INDIVIDUALS APPOINTED BY
7 THE COUNTY BOARD OF COMMISSIONERS. IF THE AUTHORITY IS SITUATED
8 IN 2 OR MORE COUNTIES, THE BOARD SHALL CONSIST OF 1 INDIVIDUAL
9 WHO IS KNOWLEDGEABLE ABOUT PEST MANAGEMENT AND IS SELECTED BY
10 CONSENSUS OF EACH OF THE INDIVIDUALS APPOINTED BY COUNTY BOARDS
11 OF COMMISSIONERS, AND 2 INDIVIDUALS FROM EACH COUNTY IN THE
12 AUTHORITY APPOINTED BY THEIR RESPECTIVE COUNTY BOARDS OF
13 COMMISSIONERS.

14 (3) THE INDIVIDUALS APPOINTED BY A COUNTY BOARD OF COMMISSIONERS
15 SHALL HOLD OFFICE FOR A TERM OF 2 YEARS BEGINNING
16 JANUARY 2 FOLLOWING HIS OR HER APPOINTMENT. AT THE FIRST MEETING,
17 THE BOARD SHALL CLASSIFY THE MEMBERS BY LOT IN SUCH A MANNER
18 THAT 1/2 OF THEIR NUMBER, IF THE TOTAL MEMBERSHIP IS AN EVEN
19 NUMBER, AND IF UNEVEN, THEN THAT A BARE MAJORITY OF THEIR NUMBER
20 SHALL HAVE TERMS WHICH EXPIRE AT THE END OF 1 YEAR AND THE
21 REMAINDER OF THE MEMBERS SHALL HAVE TERMS THAT EXPIRE AT THE END
22 OF 2 YEARS.

23 (4) A MEMBER OF THE BOARD SHALL NOT RECEIVE COMPENSATION FOR
24 HIS OR HER SERVICES TO THE BOARD, BUT MAY INCUR EXPENSES NECESSARY
25 TO CARRY OUT HIS OR HER DUTIES UNDER THIS PART AND SHALL BE
26 REIMBURSED FOR THOSE EXPENSES THAT ARE NECESSARILY INCURRED IN
27 THE PERFORMANCE OF DUTIES AS A MEMBER OF THE BOARD.

1 SEC. 13909. THE BOARD SHALL ELECT 1 MEMBER AS PRESIDENT AND
2 1 MEMBER AS SECRETARY AND ESTABLISH RULES AND PROCEDURES NECES-
3 SARY FOR PROPER FUNCTIONING OF THE BOARD.

4 SEC. 13911. (1) THE BOARD OR ITS DESIGNATED AGENTS SHALL
5 TAKE ALL NECESSARY AND PROPER STEPS FOR PEST MANAGEMENT WITHIN
6 THE AUTHORITY, INCLUDING, BUT NOT LIMITED TO, 1 OR MORE OF THE
7 FOLLOWING:

8 (A) THE PURCHASE OF SUPPLIES AND MATERIALS.

9 (B) THE EMPLOYMENT OF PERSONNEL THAT SHALL INCLUDE, BUT IS
10 NOT LIMITED TO, SEASONAL EMPLOYMENT FOR COLLEGE AND UNIVERSITY
11 STUDENTS AND EMPLOYMENT AND TRAINING FOR THE CHRONICALLY
12 UNEMPLOYED.

13 (C) THE ESTABLISHMENT OF AN ACTIVE PUBLIC EDUCATION PROGRAM
14 AS MAY BE NECESSARY OR PROPER IN THE FURTHERANCE OF THE OBJECTS
15 OF THIS PART.

16 (2) THE BOARD SHALL UTILIZE A PROFESSIONAL ENTOMOLOGIST OR
17 OTHER PERSON WITH KNOWLEDGE AND EXPERIENCE IN THE FIELD OF PEST
18 CONTROL TO ENSURE THAT PEST MANAGEMENT OPERATIONS ARE CONSISTENT
19 WITH STATE-OF-THE-ART TECHNOLOGY AND GOOD PESTICIDE MANAGEMENT
20 PRACTICES.

21 SEC. 13913. THE OWNER OR LESSEE OF PROPERTY LOCATED WITHIN
22 THE BOUNDARIES OF AN AUTHORITY MAY, ANNUALLY, BY LETTER TO THE
23 BOARD, REQUEST THAT THE PROPERTY BE EXCLUDED FROM PESTICIDE
24 APPLICATION OR OTHER PEST MANAGEMENT PROCEDURES OF THE
25 AUTHORITY. IF THE BOARD IS SATISFIED THAT THE EXCLUSION OF THE
26 PROPERTY WOULD NOT SERIOUSLY REDUCE THE EFFECTIVENESS OF THE PEST
27 MANAGEMENT PROGRAM OF THE AUTHORITY, OR IF THE REQUEST FOR THE

1 EXCLUSION IS DUE TO A MEDICAL CONDITION CERTIFIED BY A PHYSICIAN,
2 THE BOARD MAY DIRECT THAT THE PROPERTY BE EXCLUDED FROM PEST MAN-
3 AGEMENT PROCEDURES.

4 SEC. 13915. A PERSON WHO INTENTIONALLY PREVENTS, HINDERS,
5 DELAYS, OR INTERFERES WITH THE BOARD OR ITS DESIGNATED AGENTS IN
6 THE EXERCISE OF ITS POWERS OR DUTIES UNDER THIS PART IS GUILTY OF
7 A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$100.00.

8 SEC. 13917. (1) THE BOARD MAY ACCEPT APPROPRIATIONS FROM A
9 LOCAL UNIT OF GOVERNMENT OR THE STATE AND MAY ACCEPT GIFTS AND
10 CONTRIBUTIONS FROM ANY PERSON. THE BOARD MAY MAKE EXPENDITURES
11 NECESSARY TO IMPLEMENT THIS ACT FROM THE APPROPRIATIONS, GIFTS,
12 AND CONTRIBUTIONS RECEIVED. TO FINANCE THE OPERATION OF AN
13 AUTHORITY, 1 OR MORE LOCAL UNITS OF GOVERNMENT MAY DO 1 OR MORE
14 OF THE FOLLOWING:

15 (A) IMPOSE A SERVICE CHARGE ON RESIDENTS OF THE AUTHORITY.
16 THE SERVICE CHARGE SHALL NOT EXCEED THE ACTUAL COSTS INCURRED OR
17 ANTICIPATED FOR PEST MANAGEMENT PROCEDURES.

18 (B) LEVY A SPECIAL ASSESSMENT UPON LANDS BENEFITED BY THE
19 AUTHORITY. A SPECIAL ASSESSMENT MAY BE COLLECTED AT THE SAME
20 TIME AS AD VALOREM PROPERTY TAX.

21 (C) APPROPRIATE MONEY TO THE BOARD FOR PURPOSES OF PEST CON-
22 TROL WITHIN THE BOUNDARIES OF THE AUTHORITY.

23 (D) LEVY AN AD VALOREM PROPERTY TAX ON THE TAXABLE PROPERTY
24 WITHIN THE BOUNDARIES OF THE AUTHORITY, IF A MILLAGE IS APPROVED
25 AS PROVIDED IN SECTION 13919.

26 (2) IF A LOCAL UNIT OF GOVERNMENT ELECTS TO IMPOSE A SERVICE
27 CHARGE UNDER SUBSECTION (1)(A), THE BOARD SHALL CONDUCT A PUBLIC

1 HEARING AND PROVIDE PUBLIC NOTICE IN A NEWSPAPER OF GENERAL
2 CIRCULATION IN THE DISTRICT IN WHICH THE SERVICE CHARGE MAY BE
3 IMPOSED THAT A PUBLIC HEARING WILL BE CONDUCTED REGARDING THE
4 AMOUNT OF A SERVICE CHARGE TO BE ASSESSED FOR PEST MANAGEMENT
5 PURPOSES WITHIN THE BOUNDARIES OF THE AUTHORITY. PUBLIC COMMENTS
6 OFFERED AT A PUBLIC HEARING SHALL BE REVIEWED AND CONSIDERED
7 PRIOR TO DETERMINING THE AMOUNT OF A SERVICE CHARGE IMPOSED.

8 SEC. 13919. (1) AN AD VALOREM TAX SHALL NOT BE LEVIED
9 EXCEPT UPON THE APPROVAL OF A MAJORITY OF THE REGISTERED ELECTORS
10 RESIDING IN THE BOUNDARIES OF THE AUTHORITY AFFECTED AND QUALI-
11 FIED TO VOTE AND VOTING ON THE TAX AT A GENERAL OR SPECIAL
12 ELECTION. THE ELECTION MAY BE CALLED BY RESOLUTION OF THE
13 BOARD. THE BOARD SHALL FILE A COPY OF THE RESOLUTION CALLING THE
14 ELECTION WITH THE CLERK OF EACH AFFECTED LOCAL UNIT OF GOVERN-
15 MENT, OR PORTION OF THE LOCAL UNIT OF GOVERNMENT THEREOF WITHIN
16 THE AUTHORITY NOT LESS THAN 60 DAYS BEFORE THE DATE OF THE
17 ELECTION. THE RESOLUTION CALLING THE ELECTION SHALL CONTAIN A
18 STATEMENT OF THE PROPOSITION TO BE SUBMITTED TO THE ELECTORS.
19 EACH LOCAL UNIT OF GOVERNMENT CLERK AND ALL OTHER LOCAL UNIT OF
20 GOVERNMENT OFFICIALS SHALL UNDERTAKE THOSE STEPS TO PROPERLY
21 SUBMIT THE PROPOSITION TO THE ELECTORS OF THE LOCAL UNIT OF GOV-
22 ERNMENT AT THE ELECTION SPECIFIED IN THE RESOLUTIONS OF THE
23 AUTHORITY. NOT MORE THAN 1 ELECTION FOR APPROVAL OF THE TAX
24 AUTHORIZED UNDER SUBSECTION (1) MAY BE HELD IN THE BOUNDARIES OF
25 AN AUTHORITY IN A CALENDAR YEAR. IF THE ELECTION IS A SPECIAL
26 ELECTION, THE AUTHORITY FOR WHICH THE ELECTION IS HELD SHALL PAY
27 ITS SHARE OF THE COSTS OF THE ELECTION.

1 (2) THE TAX RATE AUTHORIZED BY THIS SECTION SHALL BE LEVIED
2 AND COLLECTED AS ARE ALL AD VALOREM PROPERTY TAXES IN THE STATE
3 AND THE RECORDING OFFICER OF THE AUTHORITY SHALL AT THE APPROPRI-
4 ATE TIMES CERTIFY TO THE PROPER TAX ASSESSING OR COLLECTING OFFI-
5 CERS OF EACH TAX COLLECTING LOCAL UNIT OF GOVERNMENT THE AMOUNT
6 OF TAXES TO BE LEVIED AND COLLECTED EACH YEAR BY EACH COUNTY,
7 CITY, AND TOWNSHIP. EACH TAX ASSESSING AND COLLECTING OFFICER
8 AND EACH COUNTY TREASURER SHALL LEVY AND COLLECT THE TAXES CERTI-
9 FIED BY THE AUTHORITY AND PAY THOSE TAXES TO THE AUTHORITY BY THE
10 TIME PROVIDED IN SECTION 43 OF THE GENERAL PROPERTY TAX ACT, ACT
11 NO. 206 OF THE PUBLIC ACTS OF 1893, BEING SECTION 211.43 OF THE
12 MICHIGAN COMPILED LAWS.

13 (3) COLLECTION OF ALL OR PART OF AN AUTHORITY'S PROPERTY TAX
14 LEVY SHALL COMPLY WITH BOTH OF THE FOLLOWING:

15 (A) THE AMOUNT THE AUTHORITY HAS AGREED TO PAY AS REASONABLE
16 COLLECTION EXPENSES SHALL BE STATED IN WRITING AND REPORTED TO
17 THE STATE TREASURER.

18 (B) TAXES AUTHORIZED TO BE COLLECTED SHALL BECOME A LIEN
19 AGAINST THE PROPERTY ON WHICH ASSESSED, AND DUE FROM THE OWNER OF
20 THAT PROPERTY.

21 (4) TO THE EXTENT APPLICABLE AND CONSISTENT WITH THE
22 REQUIREMENTS OF THIS SECTION, THE PROVISIONS OF THE GENERAL PROP-
23 ERTY TAX ACT, ACT NO. 206 OF THE PUBLIC ACTS OF 1893, BEING SEC-
24 TIONS 211.1 TO 211.157 OF THE MICHIGAN COMPILED LAWS, SHALL APPLY
25 TO PROCEEDINGS IN RELATION TO THE ASSESSMENT, SPREADING, AND COL-
26 LECTION OF TAXES PURSUANT TO THIS SECTION.

1 SEC. 13921. (1) BEFORE JANUARY 31 OF EACH YEAR, A CERTIFIED
2 OR COMMERCIAL APPLICATOR AS DEFINED IN SECTION 3 OF THE PESTICIDE
3 CONTROL ACT, ACT NO. 171 OF THE PUBLIC ACTS OF 1976, BEING SEC-
4 TION 286.553 OF THE MICHIGAN COMPILED LAWS, OR HIS OR HER AGENT,
5 SHALL SUBMIT A REPORT TO THE DEPARTMENT DETAILING ALL PEST CON-
6 TROL SPRAYING DONE IN THE PREVIOUS YEAR FOR LOCAL UNITS OF GOV-
7 ERNMENT, NEIGHBORHOOD ORGANIZATIONS, LAKE ASSOCIATIONS, OR
8 SUBDIVISIONS. THE REPORTS SHALL CONTAIN AT LEAST ALL OF THE FOL-
9 LOWING INFORMATION:

10 (A) THE NAME OF THE CONTRACTING GROUP.

11 (B) TWO CONTACT PERSONS FOR THE CONTRACTING GROUP.

12 (C) THE DATE OR DATES ON WHICH SPRAYING OCCURRED.

13 (D) THE GEOGRAPHIC AREA SERVED.

14 (E) THE TYPE OF PESTICIDES USED.

15 (2) THE DEPARTMENT MAY CONTACT THE CONTACT PERSONS DESIG-
16 NATED BY THE CONTRACTING GROUP PROVIDED IN THE REPORT UNDER SUB-
17 SECTION (1) TO OFFER INFORMATION THAT WILL HELP TO INSURE THE
18 METHODS OF MATERIALS USED ARE EFFECTIVE AND HAVE THE LEAST POTEN-
19 TIAL FOR HARM.

20 (3) THE DIRECTOR MAY APPOINT A STATE TECHNICAL ADVISORY COM-
21 MITTEE TO ADVISE THE DEPARTMENT ON METHODS AND MATERIALS RECOM-
22 MENDED FOR USE IN PEST MANAGEMENT. THE STATE TECHNICAL ADVISORY
23 COMMITTEE SHALL SERVE WITHOUT COMPENSATION. THE STATE TECHNICAL
24 ADVISORY COMMITTEE MAY INCLUDE MEDICAL ENTOMOLOGISTS, VETERINARI-
25 ANS, PHYSICIANS, MEMBERS OF WILDLIFE OR CONSERVATION ORGANI-
26 ZATIONS, DRAIN COMMISSIONERS AND ROAD COMMISSIONERS, AND
27 DESIGNEES OF THE DEPARTMENT.

1 (4) THE STATE TECHNICAL ADVISORY COMMITTEE MAY REVIEW THE
2 REPORTS SUBMITTED UNDER SUBSECTION (1).

3 SEC. 13923. (1) AFTER AN AUTHORITY HAS OPERATED FOR AT
4 LEAST 2 YEARS UNDER THIS PART, A PETITION MAY BE FILED WITH THE
5 COUNTY BOARD OF COMMISSIONERS TO TERMINATE THE OPERATIONS OF THE
6 AUTHORITY. THE PETITION SHALL BE SIGNED BY AT LEAST 8% OF THE
7 REGISTERED VOTERS WITHIN THE BOUNDARIES OF THE AUTHORITY WHO CAST
8 VOTES FOR GOVERNOR IN THE LAST GENERAL ELECTION WITHIN THE
9 AUTHORITY.

10 (2) WITHIN 60 DAYS AFTER A PETITION IS RECEIVED, THE COUNTY
11 BOARD OF COMMISSIONERS SHALL GIVE NOTICE OF THE HOLDING OF A SPE-
12 CIAL ELECTION IN THE MANNER PROVIDED BY LAW.

13 (3) IF A MAJORITY OF VOTES CAST IN THE SPECIAL ELECTION IS
14 IN FAVOR OF TERMINATING THE AUTHORITY, THE COUNTY BOARD OF COM-
15 MISSIONERS SHALL TERMINATE THE OPERATIONS OF THE AUTHORITY.

16 (4) THE COUNTY BOARD OF COMMISSIONERS SHALL NOT ENTERTAIN
17 PETITIONS FOR THE DISCONTINUANCE OF AN AUTHORITY OR HOLD A SPE-
18 CIAL ELECTION UNDER THIS SECTION MORE THAN ONCE EVERY 2 YEARS.