

Act No. 209
Public Acts of 2003
Approved by the Governor
November 25, 2003
Filed with the Secretary of State
November 26, 2003
EFFECTIVE DATE: November 26, 2003

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Reps. Taub, Stakoe, LaJoy, Farhat, Stahl, Emmons, Ruth Johnson, Ward, Rocca, Palsrok, Newell, Caul, Shulman, Meyer, Tabor, Bradstreet, Garfield, Hummel, Voorhees, Robertson, Amos, Brandenburg, Huizenga, Julian, Kooiman, DeRoche, Nitz, Ehardt, Vagnozzi, Gleason, Woronchak, Sheen, Shackleton, Casperson, Acciavatti, Stewart, Bisbee, Vander Veen, Paletko and Gillard

ENROLLED HOUSE BILL No. 4263

AN ACT 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 cities for the development or redevelopment projects," by amending the title and sections 1, 2, 4, 5, and 6 (MCL 125.981, 125.982, 125.984, 125.985, and 125.986), the title as amended by 2001 PA 260, sections 1, 2, and 5 as amended by 2001 PA 261, section 4 as amended by 1999 PA 49, and section 6 as amended by 1992 PA 146.

The People of the State of Michigan enact:

TITLE

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.

Sec. 1. (1) As used in this chapter:

(a) "Assessable property" means real property in a district area other than all of the following:

(i) Property classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(ii) Property owned by the federal, a state, or a local unit of government where property is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(iii) One or more classes of property owners whose property meets all of the following conditions:

(A) Is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, other than property identified in subparagraph (ii).

(B) As a class has been determined by the legislative body of the local governmental unit not to be benefited by a project for which special assessments are to be levied.

(b) "Business improvement district" means 1 or more portions of a local governmental unit or combination of contiguous portions of 2 or more local governmental units that are predominantly commercial or industrial in use.

(c) "District" means a business improvement district or a principal shopping district.

(d) "Highways" means public streets, highways, and alleys.

(e) "Local governmental unit" means a city, village, or urban township.

(f) "Principal shopping district" means a portion of a local governmental unit designated by the governing body of the local governmental unit that is predominantly commercial and that contains at least 10 retail businesses.

(g) "Urban township" means a township that is an urban township as defined in section 2 of the local development financing act, 1986 PA 281, MCL 125.2152, and is a township located in a county with a population of more than 750,000.

(2) A local governmental unit with a master plan for the physical development of the local governmental unit that includes an urban design plan designating a principal shopping district or includes the development or redevelopment of a principal shopping district, or 1 or more local governmental units that establish a business improvement district by resolution, may do 1 or more of the following:

(a) Subject, where necessary, to approval of the governmental entity that has jurisdiction over the highway, open, widen, extend, realign, pave, maintain, or otherwise improve highways and construct, reconstruct, maintain, or relocate pedestrian walkways.

(b) Subject, where necessary, to approval of the governmental entity that has jurisdiction over the highway, prohibit or regulate vehicular traffic where necessary to carry out the purposes of the development or redevelopment project.

(c) Subject, where necessary, to approval of the governmental entity that has jurisdiction over the highway, regulate or prohibit vehicular parking on highways.

(d) Acquire, own, maintain, demolish, develop, improve, or operate properties, off-street parking lots, or structures.

(e) Contract for the operation or maintenance by others of off-street parking lots or structures owned by the local governmental unit, or appoint agents for the operation or maintenance.

(f) Construct, maintain, and operate malls with bus stops, information centers, and other buildings that will serve the public interest.

(g) Acquire by purchase, gift, or condemnation and own, maintain, or operate real or personal property necessary to implement this section.

(h) Promote economic activity in the district by undertakings including, but not limited to, conducting market research and public relations campaigns, developing, coordinating, and conducting retail and institutional promotions, and sponsoring special events and related activities. A business may prohibit the use of its name or logo in a public relations campaign, promotion, or special event or related activity for the district.

(i) Provide for or contract with other public or private entities for the administration, maintenance, security, operation, and provision of services that the board determines are a benefit to a district within the local governmental unit.

(3) A local governmental unit that provides for ongoing activities under subsection (2)(h) or (i) shall also provide for the creation of a board for the management of those activities.

(4) One member of the board of the principal shopping district shall be from the adjacent residential area, 1 member shall be a representative of the local governmental unit, and a majority of the members shall be nominees of individual businesses located within the principal shopping district. The board shall be appointed by the chief executive officer of the local governmental unit with the concurrence of the legislative body of the local governmental unit. However, if all of the following requirements are met, a business may appoint a member of the board of a principal shopping district, which member shall be counted toward the majority of members required to be nominees of businesses located within the principal shopping district:

(a) The business is located within the principal shopping district.

(b) The principal shopping district was designated by the governing body of a local governmental unit after July 14, 1992.

(c) The business is located within a special assessment district established under section 5.

(d) The special assessment district is divided into special assessment rate zones reflecting varying levels of special benefits.

(e) The business is located in the special assessment rate zone with the highest special assessment rates.

(f) The square footage of the business is greater than 5.0% of the total square footage of all businesses in that special assessment rate zone.

(5) If the boundaries of the principal shopping district are the same as those of a downtown district designated under 1975 PA 197, MCL 125.1651 to 125.1681, the governing body may provide that the members of the board of the downtown development authority, which manages the downtown district, shall compose the board of the principal shopping district, in which case subsection (4) does not apply.

(6) The members of the board of a business improvement district shall be determined by the local governmental unit as provided in this subsection. The board of a business improvement district shall consist of all of the following:

(a) One representative of the local governmental unit appointed by the chief executive officer of the local governmental unit with the concurrence of the legislative body of the local governmental unit in which the business improvement district is located. If the business improvement district is located in more than 1 local governmental unit,

then 1 representative from each local governmental unit in which the business improvement district is located shall serve on the board as provided in this subdivision.

(b) Other members of the board shall be nominees of the businesses and property owners located within the business improvement district. If a class of business or property owners, as identified in the resolution described in subsection (8), is projected to pay more than 50% of the special assessment levied that benefits property in a business improvement district for the benefit of the business improvement district, the majority of the members of the board of the business improvement district shall be nominees of the business or property owners in that class.

(7) A local governmental unit may create 1 or more business improvement districts.

(8) If 1 or more local governmental units establish a business improvement district by resolution under subsection (2), the resolution shall identify all of the following:

(a) The geographic boundaries of the business improvement district.

(b) The number of board members in that business improvement district.

(c) The different classes of property owners in the business improvement district.

(d) The class of business or property owners, if any, who are projected to pay more than 50% of the special assessment levied that benefits property in that business improvement district.

Sec. 2. (1) The cost of the whole or any part of a principal shopping district project or business improvement district project as authorized in this chapter may be financed by 1 or more of the following methods:

(a) Grants and gifts to the local governmental unit or district.

(b) Local governmental unit funds.

(c) The issuance of general obligation bonds of the local governmental unit subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(d) The issuance of revenue bonds by the local governmental unit under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or under any other applicable revenue bond act. The issuance of the bonds shall be limited to the part or parts of the district project that are public improvements.

(e) The levying of special assessments against land or interests in land, or both.

(f) Any other source.

(2) Beginning January 1, 2000, the proceeds of a bond, note, or other obligation issued to finance a project authorized under this chapter shall be used for capital expenditures, costs of a reserve fund securing the bonds, notes, or other obligations, and costs of issuing the bonds, notes, or other obligations. The proceeds of the bonds, notes, or other obligations shall not be used for operational expenses of a district.

Sec. 4. The development or redevelopment of a district, including the various phases of the development or redevelopment, is 1 project and, in the discretion of the governing body of the local governmental unit, may be financed as a single improvement.

Sec. 5. (1) If a local governmental unit elects to levy special assessments to defray all or part of the cost of the district project, then the special assessments shall be levied pursuant to applicable statutory or charter provisions or, if there are no applicable statutory or charter provisions, pursuant to statutory or charter provisions applicable to local governmental unit street improvements. If a local governmental unit charter does not authorize special assessments for the purposes set forth in this chapter, the charter provisions authorizing special assessments for street improvements are made applicable to the purposes set forth in this chapter, without amendment to the charter. The total amount assessed for district purposes may be made payable in not more than 20 annual installments as determined by the governing body of the local governmental unit, the first installment to be payable in not more than 18 months after the date of the confirmation of the special assessment roll.

(2) A special assessment shall be levied against assessable property on the basis of the special benefits to that parcel from the total project. There is a rebuttable presumption that a district project specially benefits all assessable property located within the district.

(3) This subsection applies to a principal shopping district only if the principal shopping district is designated by the governing body of a local governmental unit after July 14, 1992. The special assessments annually levied on a parcel under this chapter shall not exceed the product of \$10,000.00 and the number of businesses on that parcel. A business located on a single parcel shall not be responsible for a special assessment in excess of \$10,000.00 annually. When the special assessment district is created, a lessor of a parcel subject to a special assessment may unilaterally revise an existing lease to a business located on that parcel to recover from that business all or part of the special assessment, as is proportionate considering the portion of the parcel occupied by the business.

(4) The \$10,000.00 maximum amounts in subsection (3) shall be adjusted each January 1, beginning January 1, 1994, pursuant to the annual average percentage increase or decrease in the Detroit consumer price index for all items as reported by the United States department of labor. The adjustment for each year shall be made by comparing the Detroit consumer price index for the 12-month period ending the preceding October 31 with the corresponding Detroit consumer price index of 1 year earlier. The percentage increase or decrease shall then be multiplied by the current

amounts under subsection (3) authorized by this section. The product shall be rounded up to the nearest multiple of 50 cents and shall be the new amount.

(5) The local governmental unit may issue special assessment bonds in anticipation of the collection of the special assessments for a district project and, by action of its governing body, may pledge its full faith and credit for the prompt payment of the bonds. Special assessment bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The last maturity on the bonds shall be not later than 2 years after the due date of the last installment on the special assessments. Special assessment bonds may be issued pursuant to statutory or charter provisions applicable to the issuance by the local governmental unit of special assessment bonds for the improvement or, if there are no applicable statutory or charter provisions, pursuant to statutory or charter provisions applicable to the issuance by the local governmental unit of special assessment bonds for street improvements.

(6) If a district project in a district designated by the governing body of a local governmental unit after July 14, 1992 is financed by special assessments, the governing body of the local governmental unit shall review the special assessments every 5 years, unless special assessment bonds are outstanding.

(7) Before a local governmental unit levies a special assessment under this chapter that benefits property within a business improvement district, the business improvement district board shall develop a marketing and development plan that details all of the following:

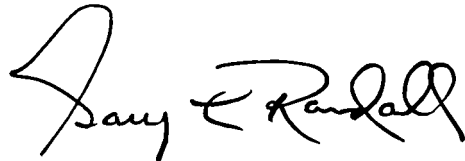
(a) The scope, nature, and duration of the business improvement district project or projects.

(b) The different classes of property owners who are going to be assessed and the projected amount of the special assessment on the different classes.

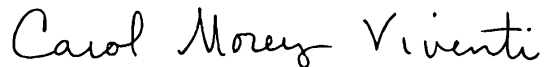
(8) A local governmental unit that levies a special assessment under this chapter that benefits property within a business improvement district is considered to have approved the marketing and development plan described in subsection (7).

Sec. 6. If off-street parking lots or structures are essential to the principal shopping district project, if 1 or more off-street parking lots or structures are already owned by the local governmental unit and were acquired through the issuance of revenue bonds, and if the remaining parking lots or structures are to be financed in whole or in part by special assessments and special assessment bonds, then the local governmental unit, to place all parking lots or structures on the same basis, may include as a part of the cost of parking lots or structures for the project the amount necessary to retire all or any part of the outstanding revenue bonds, inclusive of any premium not exceeding 5% necessary to be paid upon the redemption or purchase of those outstanding bonds. From the proceeds of the special assessments or from the sale of bonds issued in anticipation of the payment of the special assessments, the local governmental unit shall retire by redemption or purchase the outstanding revenue bonds. This section does not authorize the refunding of noncallable bonds without the consent of the holders of the bonds.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor