

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1589

A bill to amend 1867 PA 35, entitled

"An act to provide for the formation of street railway companies, defining their powers and duties and authorizing the construction, use, maintenance and ownership of street railways for the transportation of passengers, and for accumulating, storing, manufacturing, conducting, using, selling, furnishing and supplying electricity and electric power, by such companies,"

by amending the title and section 23 (MCL 472.23); and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to provide for the formation of **NONPROFIT** street railway companies, defining their powers and duties and authorizing the construction, use, maintenance and ownership of street railways for the transportation of passengers, and for accumulating, storing, manufacturing, conducting, using, selling, furnishing and supplying electricity and electric power, by such companies; **TO PRESCRIBE POWERS AND DUTIES OF CERTAIN STATE AND LOCAL AGENCIES AND**

1 OFFICIALS; TO PROVIDE REMEDIES AND PENALTIES; TO PROVIDE FOR THE
2 ESTABLISHMENT OF A TRANSIT DEVELOPMENT FINANCE ZONE; AND TO
3 AUTHORIZE THE USE OF TAX INCREMENT FINANCING.

4 Sec. 23. ~~If the directors of any company formed under this act~~
5 ~~shall declare or pay any dividend when the company is insolvent, or~~
6 ~~the payment of which would render it insolvent, or which would~~
7 ~~diminish the amount of its capital stock, they and all stockholders~~
8 ~~who shall knowingly accept or receive such dividend, shall be~~
9 ~~jointly and severally individually liable for all the debts of such~~
10 ~~company then existing and for all that shall be thereafter~~
11 ~~contracted, while they shall respectively continue stockholders or~~
12 ~~in office.~~

13 (1) AT THE REQUEST OF A STREET RAILWAY, AND WITH THE CONSENT
14 OF THE DEPARTMENT, A CITY, VILLAGE, OR TOWNSHIP IN WHICH A STREET
15 RAILWAY SYSTEM IS LOCATED MAY ESTABLISH A TRANSIT OPERATIONS
16 FINANCE ZONE FOR A STREET RAILWAY SYSTEM IF THE CITY, VILLAGE, OR
17 TOWNSHIP AND THE DEPARTMENT DETERMINE THAT IT IS NECESSARY FOR THE
18 BEST INTERESTS OF THE PUBLIC TO PROMOTE AND FINANCE TRANSIT
19 OPERATIONS IN A ZONE. A PARCEL SHALL NOT BE INCLUDED IN MORE THAN 1
20 ZONE CREATED UNDER THIS SECTION.

21 (2) THE BOUNDARIES OF A ZONE SHALL BE ESTABLISHED BY THE CITY,
22 VILLAGE, OR TOWNSHIP AND MAY INCLUDE PARCELS THAT ARE IN WHOLE OR
23 IN PART UP TO 1/4 MILE IN DISTANCE FROM THE STREET RAILWAY SYSTEM.
24 BEFORE ESTABLISHING A ZONE, THE CITY, VILLAGE, OR TOWNSHIP SHALL
25 CONSULT WITH THE STREET RAILWAY, THE DEPARTMENT, AFFECTED TAXING
26 JURISDICTIONS, AND ANY OTHER PERSON OR ENTITY THAT THE CITY,
27 VILLAGE, OR TOWNSHIP CONSIDERS NECESSARY. THE CITY, VILLAGE, OR

1 TOWNSHIP MAY CONDUCT A PLANNING STUDY AND MAY DESIGNATE A ZONE
2 BEFORE IMPLEMENTATION OF STREET RAILWAY SYSTEM SERVICE WITHIN THE
3 ZONE.

4 (3) IF THE CITY, VILLAGE, OR TOWNSHIP AND THE DEPARTMENT
5 DETERMINE THAT IT IS NECESSARY FOR THE BEST INTERESTS OF THE PUBLIC
6 TO PROMOTE AND FINANCE TRANSIT OPERATIONS IN A ZONE UNDER
7 SUBSECTION (1), THE CITY, VILLAGE, OR TOWNSHIP SHALL ENTER INTO AN
8 AGREEMENT WITH THE STREET RAILWAY AND THE DEPARTMENT FOR THE
9 CREATION OF A ZONE. THE AGREEMENT SHALL INCLUDE, BUT NOT BE LIMITED
10 TO, ALL OF THE FOLLOWING:

11 (A) THE GEOGRAPHIC BOUNDARIES OF THE ZONE, INCLUDING BOTH OF
12 THE FOLLOWING:

13 (i) THE DESIGNATION OF BOUNDARIES OF THE ZONE IN RELATION TO
14 HIGHWAYS, STREETS, STREAMS, LAKES, OTHER BODIES OF WATER, OR
15 OTHERWISE.

16 (ii) THE LOCATION AND EXTENT OF EXISTING STREETS AND OTHER
17 PUBLIC FACILITIES WITHIN THE ZONE, DESIGNATING THE LOCATION,
18 CHARACTER, AND EXTENT OF THE CATEGORIES OF PUBLIC AND PRIVATE LAND
19 USES THEN EXISTING IN THE ZONE, INCLUDING RESIDENTIAL,
20 RECREATIONAL, COMMERCIAL, INDUSTRIAL, EDUCATIONAL, AND OTHER USES,
21 AND INCLUDING A LEGAL DESCRIPTION OF THE ZONE.

22 (B) A TAX INCREMENT FINANCING PLAN FOR THE ZONE AS PROVIDED
23 UNDER SUBSECTION (4).

24 (C) A DESCRIPTION OF SPECIFIC ACTIONS TO BE TAKEN BY THE
25 PARTIES UNDER THE AGREEMENT TO HELP ESTABLISH THE ZONE.

26 (D) THE REQUIREMENT THAT AMENDMENTS TO THE AGREEMENT MUST BE
27 APPROVED BY THE CITY, VILLAGE, OR TOWNSHIP, THE DEPARTMENT, AND THE

1 STREET RAILWAY.

2 (E) ANY OTHER MATERIAL THAT THE CITY, VILLAGE, OR TOWNSHIP,
3 THE DEPARTMENT, OR THE STREET RAILWAY CONSIDER NECESSARY OR
4 APPROPRIATE.

5 (4) A TAX INCREMENT FINANCING PLAN FOR A ZONE ESTABLISHED
6 UNDER THIS SECTION SHALL INCLUDE A DESCRIPTION OF THE TAX INCREMENT
7 FINANCING PROCEDURE, THE DISTRIBUTION OF TAX INCREMENT FINANCING
8 REVENUE TO THE STREET RAILWAY, AND A STATEMENT OF THE ESTIMATED
9 IMPACT OF TAX INCREMENT FINANCING ON THE ASSESSED VALUE OF PROPERTY
10 IN EACH TAXING JURISDICTION IN THE ZONE. THE PLAN MAY EXCLUDE FROM
11 CAPTURED ASSESSED VALUE GROWTH IN PROPERTY VALUE RESULTING SOLELY
12 FROM INFLATION AND, IF SO, SHALL INCLUDE THE METHOD FOR EXCLUDING
13 THAT GROWTH. THE PLAN SHALL REQUIRE THAT TAX INCREMENT REVENUE
14 RECEIVED BY A STREET RAILWAY UNDER THE PLAN BE USED ONLY FOR THE
15 EXPENSES OF OPERATING THE STREET RAILWAY SYSTEM. IF THE STREET
16 RAILWAY SUBJECT TO AN AGREEMENT DESIGNATING A ZONE UNDER THIS
17 SECTION CEASES TO OPERATE A STREET RAILWAY SYSTEM IN THE CITY,
18 VILLAGE, OR TOWNSHIP THAT ESTABLISHED THE ZONE, THE PLAN SHALL
19 TERMINATE AND THE ZONE SHALL BE ABOLISHED. THE PLAN SHALL RESTRICT
20 THE REVENUE DISTRIBUTED TO A STREET RAILWAY FOR ANY TAX YEAR TO THE
21 LESSER OF 25% OF ANY OPERATING DEFICIT OF THE STREET RAILWAY FOR
22 THE PRIOR FISCAL YEAR OR \$4,000,000.00. BEFORE INCLUDING A TAX
23 INCREMENT FINANCING PLAN IN AN AGREEMENT, THE CITY, VILLAGE, OR
24 TOWNSHIP SHALL PROVIDE TAXING JURISDICTIONS IN THE ZONE LEVYING
25 TAXES SUBJECT TO CAPTURE UNDER THE PLAN AN OPPORTUNITY TO MEET WITH
26 THE CITY, VILLAGE, OR TOWNSHIP. THE CITY, VILLAGE, OR TOWNSHIP
27 SHALL FULLY INFORM THE TAXING JURISDICTIONS OF THE FISCAL AND

1 ECONOMIC IMPLICATIONS OF THE PLAN AND THE TAXING JURISDICTIONS MAY
2 PRESENT RECOMMENDATIONS TO THE CITY, VILLAGE, OR TOWNSHIP ON THE
3 TAX INCREMENT FINANCING PLAN.

4 (5) BEFORE ENTERING INTO AN AGREEMENT FOR THE CREATION OF A
5 ZONE UNDER THIS SECTION, THE CITY, VILLAGE, OR TOWNSHIP SHALL
6 CONDUCT A PUBLIC HEARING ON THE PROPOSED AGREEMENT. NOTICE OF THE
7 PUBLIC HEARING SHALL BE PUBLISHED TWICE IN A NEWSPAPER OF GENERAL
8 CIRCULATION IN THE CITY, VILLAGE, OR TOWNSHIP, NOT LESS THAN 20 OR
9 MORE THAN 40 DAYS BEFORE THE DATE OF THE HEARING. THE NOTICE SHALL
10 STATE THE DATE, TIME, AND PLACE OF THE HEARING AND SHALL DESCRIBE
11 THE PROPOSED BOUNDARIES OF THE ZONE. A CITIZEN, TAXPAYER, OR
12 PROPERTY OWNER OF THE CITY, VILLAGE, OR TOWNSHIP, OR AN OFFICIAL
13 FROM A TAXING JURISDICTION WITHIN THE ZONE HAS THE RIGHT TO BE
14 HEARD ON THE AGREEMENT AND THE PROPOSED BOUNDARIES OF THE ZONE. THE
15 AGREEMENT SHALL NOT INCLUDE IN THE ZONE LAND NOT INCLUDED IN THE
16 DESCRIPTION CONTAINED IN THE NOTICE OF PUBLIC HEARING, BUT THE
17 AGREEMENT MAY EXCLUDE DESCRIBED LAND FROM THE ZONE IN THE FINAL
18 DETERMINATION OF THE BOUNDARIES OF THE ZONE. A CITY, VILLAGE, OR
19 TOWNSHIP SHALL NOT EXECUTE AN AGREEMENT FOR THE CREATION OF A ZONE
20 UNDER THIS SECTION UNLESS THE CITY, VILLAGE, OR TOWNSHIP FINDS THAT
21 IT IS NECESSARY FOR THE BEST INTERESTS OF THE PUBLIC TO PROMOTE AND
22 FINANCE TRANSIT OPERATIONS IN A ZONE.

23 (6) AN AGREEMENT DESIGNATING A ZONE AND ESTABLISHING ITS
24 BOUNDARIES UNDER THIS SECTION AND ANY AMENDMENTS TO THE AGREEMENT
25 SHALL BE FILED BY THE CITY, VILLAGE, OR TOWNSHIP WITH THE SECRETARY
26 OF STATE.

27 (7) THE MUNICIPAL AND COUNTY TREASURERS SHALL TRANSMIT TAX

1 INCREMENT REVENUES TO THE TREASURER FOR THE CITY, VILLAGE, OR
2 TOWNSHIP IN WHICH THE STREET RAILWAY SYSTEM IS LOCATED FOR
3 DISTRIBUTION TO THE STREET RAILWAY ACCORDING TO THE TAX INCREMENT
4 FINANCING PLAN AND THE AGREEMENT. THE STREET RAILWAY SHALL EXPEND
5 THE TAX INCREMENT REVENUES ONLY UNDER THE TERMS OF THE TAX
6 INCREMENT FINANCING PLAN AND THE AGREEMENT UNDER THIS SECTION.
7 UNUSED FUNDS SHALL REVERT PROPORTIONATELY TO THE RESPECTIVE TAXING
8 JURISDICTIONS. TAX INCREMENT REVENUES SHALL NOT BE USED TO
9 CIRCUMVENT EXISTING PROPERTY TAX LIMITATIONS. THE CITY, VILLAGE, OR
10 TOWNSHIP AND THE DEPARTMENT MAY ABOLISH THE ZONE IF THE CITY,
11 VILLAGE, OR TOWNSHIP AND THE DEPARTMENT FIND THAT THE PURPOSES FOR
12 WHICH THE ZONE WAS ESTABLISHED ARE ACCOMPLISHED. ANNUALLY, THE
13 CITY, VILLAGE, OR TOWNSHIP, WITH ASSISTANCE FROM THE STREET
14 RAILWAY, SHALL SUBMIT TO THE DEPARTMENT AND THE STATE TAX
15 COMMISSION A REPORT ON THE STATUS OF THE TAX INCREMENT FINANCING
16 REVENUE. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

17 (A) THE AMOUNT AND SOURCE OF TAX INCREMENT REVENUE RECEIVED BY
18 THE STREET RAILWAY.

19 (B) THE AMOUNT AND PURPOSE OF EXPENDITURES FROM TAX INCREMENT
20 REVENUE.

21 (C) THE INITIAL ASSESSED VALUE OF THE ZONE.

22 (D) THE CAPTURED ASSESSED VALUE RETAINED WITHIN THE ZONE.

23 (E) A DESCRIPTION OF OPERATING EXPENDITURES OF THE STREET
24 RAILWAY.

25 (8) THE STATE TAX COMMISSION MAY INSTITUTE PROCEEDINGS TO
26 COMPEL ENFORCEMENT OF THIS SECTION. THE STATE TAX COMMISSION MAY
27 PROMULGATE RULES NECESSARY FOR THE ADMINISTRATION OF THIS SECTION

1 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
2 24.201 TO 24.328.

3 (9) AS USED IN THIS SECTION:

4 (A) "ASSESSED VALUE" MEANS THE TAXABLE VALUE AS DETERMINED
5 UNDER SECTION 27A OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL
6 211.27A.

7 (B) "CAPTURED ASSESSED VALUE" MEANS THE AMOUNT IN ANY 1 YEAR
8 BY WHICH THE CURRENT ASSESSED VALUE OF A ZONE, INCLUDING THE
9 ASSESSED VALUE OF PROPERTY FOR WHICH SPECIFIC LOCAL TAXES ARE PAID
10 IN LIEU OF PROPERTY TAXES, EXCEEDS THE INITIAL ASSESSED VALUE. THE
11 STATE TAX COMMISSION SHALL PRESCRIBE THE METHOD FOR CALCULATING
12 CAPTURED ASSESSED VALUE.

13 (C) "INITIAL ASSESSED VALUE" MEANS THE ASSESSED VALUE OF ALL
14 THE TAXABLE PROPERTY WITHIN THE BOUNDARIES OF A ZONE AT THE TIME
15 THE TAX INCREMENT FINANCING PLAN IS APPROVED, AS SHOWN BY THE MOST
16 RECENT EQUALIZED ASSESSMENT ROLL OF THE CITY, VILLAGE, OR TOWNSHIP
17 AT THE TIME AN AGREEMENT IS APPROVED UNDER THIS SECTION. PROPERTY
18 EXEMPT FROM TAXATION AT THE TIME OF THE DETERMINATION OF THE
19 INITIAL ASSESSED VALUE SHALL BE INCLUDED AS ZERO. FOR THE PURPOSE
20 OF DETERMINING INITIAL ASSESSED VALUE, PROPERTY FOR WHICH A
21 SPECIFIC LOCAL TAX IS PAID IN LIEU OF A PROPERTY TAX SHALL NOT BE
22 CONSIDERED TO BE PROPERTY THAT IS EXEMPT FROM TAXATION.

23 (D) "PARCEL" MEANS AN IDENTIFIABLE UNIT OF LAND THAT IS
24 TREATED AS SEPARATE FOR VALUATION OR ZONING PURPOSES.

25 (E) "SPECIFIC LOCAL TAX" MEANS A TAX LEVIED UNDER 1974 PA 198,
26 1976 PA 430, MCL 207.551 TO 207.572, THE COMMERCIAL REDEVELOPMENT
27 ACT, 1978 PA 255, MCL 207.651 TO 207.668, THE TECHNOLOGY PARK

1 DEVELOPMENT ACT, 1984 PA 385, MCL 207.701 TO 207.718, THE
2 COMMERCIAL REHABILITATION ACT, 2005 PA 210, MCL 207.841 TO 207.856,
3 THE NEIGHBORHOOD ENTERPRISE ZONE ACT, 1992 PA 147, MCL 207.771 TO
4 207.786, THE OBSOLETE PROPERTY REHABILITATION ACT, 2000 PA 146, MCL
5 125.2781 TO 125.2797, OR 1953 PA 189, MCL 211.181 TO 211.182. THE
6 INITIAL ASSESSED VALUE OR CURRENT ASSESSED VALUE OF PROPERTY
7 SUBJECT TO A SPECIFIC LOCAL TAX SHALL BE THE QUOTIENT OF THE
8 SPECIFIC LOCAL TAX PAID DIVIDED BY THE AD VALOREM MILLAGE RATE. THE
9 STATE TAX COMMISSION SHALL PRESCRIBE THE METHOD FOR CALCULATING THE
10 INITIAL ASSESSED VALUE AND CURRENT ASSESSED VALUE OF PROPERTY FOR
11 WHICH A SPECIFIC LOCAL TAX WAS PAID IN LIEU OF A PROPERTY TAX.

12 (F) "TAX INCREMENT REVENUES" MEANS THE AMOUNT OF AD VALOREM
13 PROPERTY TAXES AND SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE
14 APPLICATION OF THE LEVY OF ALL TAXING JURISDICTIONS UPON THE
15 CAPTURED ASSESSED VALUE OF REAL AND PERSONAL PROPERTY IN THE ZONE.
16 TAX INCREMENT REVENUES DO NOT INCLUDE ANY OF THE FOLLOWING:

17 (i) TAXES UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL
18 211.901 TO 211.906.

19 (ii) TAXES LEVIED BY LOCAL OR INTERMEDIATE SCHOOL DISTRICTS.

20 (iii) TAXES LEVIED BY A LIBRARY ESTABLISHED BY 1901 LA 359.

21 (iv) AD VALOREM PROPERTY TAXES ATTRIBUTABLE EITHER TO A PORTION
22 OF THE CAPTURED ASSESSED VALUE SHARED WITH TAXING JURISDICTIONS
23 WITHIN THE JURISDICTIONAL AREA OF THE AUTHORITY OR TO A PORTION OF
24 VALUE OF PROPERTY THAT MAY BE EXCLUDED FROM CAPTURED ASSESSED VALUE
25 OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE AD VALOREM PROPERTY
26 TAXES.

27 (v) AD VALOREM PROPERTY TAXES EXCLUDED BY THE TAX INCREMENT

1 FINANCING PLAN OF THE AUTHORITY FROM THE DETERMINATION OF THE
2 AMOUNT OF TAX INCREMENT REVENUES TO BE TRANSMITTED TO THE AUTHORITY
3 OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE AD VALOREM PROPERTY
4 TAXES.

5 (vi) AD VALOREM PROPERTY TAXES EXEMPTED FROM CAPTURE UNDER THIS
6 SECTION OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE AD VALOREM
7 PROPERTY TAXES.

8 (vii) AD VALOREM PROPERTY TAXES SPECIFICALLY LEVIED FOR THE
9 PAYMENT OF PRINCIPAL AND INTEREST OF OBLIGATIONS APPROVED BY THE
10 ELECTORS OR OBLIGATIONS PLEDGING THE UNLIMITED TAXING POWER OF THE
11 LOCAL GOVERNMENTAL UNIT OR SPECIFIC TAXES ATTRIBUTABLE TO THOSE AD
12 VALOREM PROPERTY TAXES.

13 (viii) AD VALOREM TAXES CAPTURED ON PROPERTY IN A ZONE BY ANY OF
14 THE FOLLOWING AUTHORITIES IF THE TAXES WERE CAPTURED ON THE DATE
15 THAT THE PROPERTY BECAME SUBJECT TO A TAX INCREMENT FINANCING PLAN
16 UNDER THIS SECTION BY ANY OF THE FOLLOWING AUTHORITIES:

17 (A) A DOWNTOWN DEVELOPMENT AUTHORITY CREATED UNDER 1975 PA
18 197, MCL 125.1651 TO 125.1681.

19 (B) A WATER RESOURCE IMPROVEMENT TAX INCREMENT FINANCE
20 AUTHORITY CREATED UNDER THE WATER RESOURCE TAX INCREMENT FINANCE
21 AUTHORITY ACT, 2008 PA 94, MCL 125.1771 TO 125.1794.

22 (C) A TAX INCREMENT FINANCE AUTHORITY UNDER THE TAX INCREMENT
23 FINANCE AUTHORITY ACT, 1980 PA 450, MCL 125.1801 TO 125.1830.

24 (D) A LOCAL DEVELOPMENT FINANCE AUTHORITY CREATED UNDER THE
25 LOCAL DEVELOPMENT FINANCE AUTHORITY ACT, 1986 PA 281, MCL 125.2151
26 TO 125.2174.

27 (E) A BROWNFIELD REDEVELOPMENT FINANCE AUTHORITY CREATED UNDER

1 THE BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL
2 126.2651 TO 125.2672.

3 (F) A HISTORICAL NEIGHBORHOOD TAX INCREMENT FINANCE AUTHORITY
4 CREATED UNDER THE HISTORICAL NEIGHBORHOOD TAX INCREMENT FINANCE
5 AUTHORITY ACT, 2004 PA 530, MCL 125.2841 TO 12.2866.

6 (G) A CORRIDOR IMPROVEMENT AUTHORITY CREATED UNDER THE
7 CORRIDOR IMPROVEMENT AUTHORITY ACT, 2005 PA 280, MCL 125.2871 TO
8 125.2899.

9 (H) A NEIGHBORHOOD IMPROVEMENT AUTHORITY CREATED UNDER THE
10 NEIGHBORHOOD IMPROVEMENT AUTHORITY ACT, 2007 PA 61, MCL 125.2911 TO
11 125.2932.

12 (G) "ZONE" MEANS A TRANSIT OPERATIONS FINANCE ZONE ESTABLISHED
13 UNDER THIS SECTION.

14 Enacting section 1. Sections 2, 4, 6, 8, 10, 12, 14, 16, 18,
15 20, 22, 24, 25, 28, 29, 30, 31, 31a, 32, 34, 35, and 36 of 1867 PA
16 35, MCL 472.2, 472.4, 472.6, 472.8, 472.10, 472.12, 472.14, 472.16,
17 472.18, 472.20, 472.22, 472.24, 472.25, 472.28, 472.29, 472.30,
18 472.31, 472.31a, 472.32, 472.34, 472.35, and 472.36, are repealed.

19 Enacting section 2. This amendatory act does not take effect
20 unless all of the following bills of the 94th Legislature are
21 enacted into law:

22 (a) House Bill No. 6542.

23 (b) House Bill No. 6543.

24 (c) House Bill No. 6546.

25 (d) House Bill No. 6625.