

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

1 supplying electricity and electric power, by such companies; TO
2 PRESCRIBE POWERS AND DUTIES OF CERTAIN STATE AND LOCAL AGENCIES AND
3 OFFICIALS; TO PROVIDE REMEDIES AND PENALTIES; TO PROVIDE FOR THE
4 ESTABLISHMENT OF A TRANSIT DEVELOPMENT FINANCE ZONE; AND TO
5 AUTHORIZE THE USE OF TAX INCREMENT FINANCING.

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

15 (1) AT THE REQUEST OF A STREET RAILWAY, THE DEPARTMENT MAY
16 ESTABLISH A TRANSIT DEVELOPMENT FINANCE ZONE FOR A STREET RAILWAY
17 SYSTEM IF THE DEPARTMENT DETERMINES THAT IT IS NECESSARY FOR THE
18 BEST INTERESTS OF THE PUBLIC TO PROMOTE AND FINANCE TRANSIT
19 DEVELOPMENT IN A ZONE. A PARCEL SHALL NOT BE INCLUDED IN MORE THAN
20 1 ZONE CREATED UNDER THIS SECTION.

21 (2) THE BOUNDARIES OF A ZONE SHALL BE ESTABLISHED BY THE
22 DEPARTMENT AND MAY INCLUDE PARCELS THAT ARE NOT GREATER THAN 1/4
23 MILE IN DISTANCE FROM A STREET RAILWAY SYSTEM OPERATED BY THE
24 STREET RAILWAY. BEFORE ESTABLISHING A ZONE, THE DEPARTMENT SHALL
25 CONSULT WITH AFFECTED MUNICIPALITIES, COUNTIES, STREET RAILWAYS,
26 PUBLIC TRANSPORTATION AGENCIES, PRIVATE TRANSPORTATION PROVIDERS,
27 AND ANY OTHER PERSON OR ENTITY THAT THE DEPARTMENT CONSIDERS

Senate Bill No. 1589 as amended December 4, 2008

1 NECESSARY BEFORE DESIGNATING A ZONE. THE DEPARTMENT MAY CONDUCT A
 2 PLANNING STUDY AND MAY DESIGNATE A ZONE IN ADVANCE OF
 3 IMPLEMENTATION OF STREET RAILWAY SYSTEM SERVICE ASSOCIATED WITH A
 4 ZONE.

5 (3) THE DEPARTMENT SHALL ENTER INTO AN AGREEMENT WITH THE
 6 AFFECTED MUNICIPALITIES<<, A COUNTY WITH A POPULATION OF MORE THAN
 2,000,000,>> AND THE STREET RAILWAY TO CREATE A ZONE.

7 THE AGREEMENT SHALL INCLUDE ALL OF THE FOLLOWING:

8 (A) THE GEOGRAPHIC BOUNDARIES OF THE ZONE, INCLUDING BOTH OF
 9 THE FOLLOWING:

10 (i) THE DESIGNATION OF BOUNDARIES OF THE ZONE IN RELATION TO
 11 HIGHWAYS, STREETS, STREAMS, LAKES, OTHER BODIES OF WATER, OR
 12 OTHERWISE.

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

19 (B) A TAX INCREMENT FINANCING PLAN FOR THE ZONE.

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

22 (D) THE REQUIREMENT THAT AMENDMENTS TO THE AGREEMENT MUST BE
 23 APPROVED BY THE DEPARTMENT, AFFECTED MUNICIPALITIES, <<A COUNTY WITH A
 POPULATION OF MORE THAN 2,000,000,>> AND THE STREET
 24 RAILWAY.

25 (E) ANY OTHER MATERIAL THAT THE DEPARTMENT, AFFECTED
 26 MUNICIPALITIES, <<COUNTY WITH A POPULATION OF MORE THAN 2,000,000,>> OR
 THE STREET RAILWAY CONSIDERS NECESSARY OR
 27 APPROPRIATE.

1 (4) AN AGREEMENT DESIGNATING A ZONE AND ESTABLISHING ITS
2 BOUNDARIES UNDER SUBSECTION (3) AND ANY AMENDMENTS TO THE AGREEMENT
3 SHALL BE FILED BY THE DEPARTMENT WITH THE SECRETARY OF STATE.

4 (5) A TAX INCREMENT FINANCING PLAN FOR A ZONE ESTABLISHED
5 UNDER THIS SECTION SHALL INCLUDE A DETAILED EXPLANATION OF THE TAX
6 INCREMENT PROCEDURE AND A STATEMENT OF THE ESTIMATED IMPACT OF TAX
7 INCREMENT FINANCING ON THE ASSESSED VALUE OF ALL TAXING
8 JURISDICTIONS IN WHICH THE ZONE IS LOCATED. THE PLAN SHALL PROVIDE
9 FOR THE USE OF PART OR ALL OF THE CAPTURED ASSESSED VALUE BY THE
10 STREET RAILWAY FOR THE EXPENSES OF OPERATING THE STREET RAILWAY,
11 WITH ANY PORTION USED CLEARLY STATED IN THE TAX INCREMENT FINANCING
12 PLAN. THE DEPARTMENT AND AFFECTED MUNICIPALITIES MAY EXCLUDE FROM
13 CAPTURED ASSESSED VALUE GROWTH IN PROPERTY VALUE RESULTING SOLELY
14 FROM INFLATION. THE PLAN SHALL SET FORTH THE METHOD FOR EXCLUDING
15 GROWTH IN PROPERTY VALUE RESULTING SOLELY FROM INFLATION. BEFORE
16 INCLUDING A TAX INCREMENT FINANCING PLAN IN AN AGREEMENT UNDER
17 SUBSECTION (3), THE DEPARTMENT SHALL PROVIDE A REASONABLE
18 OPPORTUNITY TO THE TAXING JURISDICTIONS LEVYING TAXES SUBJECT TO
19 CAPTURE TO MEET WITH THE DEPARTMENT. THE DEPARTMENT SHALL FULLY
20 INFORM THE TAXING JURISDICTIONS OF THE FISCAL AND ECONOMIC
21 IMPLICATIONS OF THE PLAN. THE TAXING JURISDICTIONS MAY PRESENT
22 THEIR RECOMMENDATIONS TO THE DEPARTMENT ON THE TAX INCREMENT
23 FINANCING PLAN.

24 (6) BEFORE A TAX INCREMENT FINANCING PLAN IS IMPLEMENTED, THE
25 DEPARTMENT SHALL ENTER INTO A CONTRACT WITH THE STREET RAILWAY
26 INCLUDED WITHIN THE ZONE. THE CONTRACT SHALL INCLUDE, BUT NOT BE
27 LIMITED TO, TERMS REGARDING THE DISTRIBUTION OF REVENUE.

1 (7) THE MUNICIPAL AND COUNTY TREASURERS SHALL TRANSMIT TAX
2 INCREMENT REVENUES TO THE STREET RAILWAY. THE STREET RAILWAY SHALL
3 EXPEND THE TAX INCREMENT REVENUES ONLY UNDER THE TERMS OF THE TAX
4 INCREMENT FINANCING PLAN. UNUSED FUNDS SHALL REVERT PROPORTIONATELY
5 TO THE RESPECTIVE TAXING BODIES. TAX INCREMENT REVENUES SHALL NOT
6 BE USED TO CIRCUMVENT EXISTING PROPERTY TAX LIMITATIONS. THE
7 DEPARTMENT MAY ABOLISH THE TAX INCREMENT FINANCING PLAN IF IT FINDS
8 THAT THE PURPOSES FOR WHICH IT WAS ESTABLISHED ARE ACCOMPLISHED.
9 ANNUALLY, THE STREET RAILWAY, WITH ASSISTANCE FROM THE DEPARTMENT,
10 SHALL SUBMIT TO THE DEPARTMENT AND THE STATE TAX COMMISSION A
11 REPORT ON THE STATUS OF THE TAX INCREMENT FINANCING REVENUE. THE
12 REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

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

15 (B) THE AMOUNT AND PURPOSE OF EXPENDITURES FROM TAX INCREMENT
16 REVENUE.

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

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

19 (E) A DESCRIPTION OF OPERATING EXPENDITURES OF THE STREET
20 RAILWAY.

21 (F) ANY ADDITIONAL INFORMATION THE DEPARTMENT OR STATE TAX
22 COMMISSION CONSIDERS NECESSARY.

23 (8) THE STATE TAX COMMISSION MAY INSTITUTE PROCEEDINGS TO
24 COMPEL ENFORCEMENT OF THIS SECTION. THE STATE TAX COMMISSION MAY
25 PROMULGATE RULES NECESSARY FOR THE ADMINISTRATION OF THIS SECTION
26 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
27 24.201 TO 24.328.

1 (9) THE DEPARTMENT OF TREASURY AND THE STATE TAX COMMISSION
2 MAY ASSIST THE DEPARTMENT IN PERFORMING DUTIES AND RESPONSIBILITIES
3 UNDER THIS SECTION.

4 (10) AS USED IN THIS SECTION:

5 (A) "ASSESSED VALUE" MEANS THE TAXABLE VALUE AS DETERMINED
6 UNDER SECTION 27A OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL
7 211.27A.

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

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

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

26 (E) "SPECIFIC LOCAL TAX" MEANS A TAX LEVIED UNDER 1974 PA 198,
27 MCL 207.551 TO 207.572, THE COMMERCIAL REDEVELOPMENT ACT, 1978 PA

1 255, MCL 207.651 TO 207.668, THE TECHNOLOGY PARK DEVELOPMENT ACT,
2 1984 PA 385, MCL 207.701 TO 207.718, THE COMMERCIAL REHABILITATION
3 ACT, 2005 PA 210, MCL 207.841 TO 207.856, OR 1953 PA 189, MCL
4 211.181 TO 211.182. THE INITIAL ASSESSED VALUE OR CURRENT ASSESSED
5 VALUE OF PROPERTY SUBJECT TO A SPECIFIC LOCAL TAX SHALL BE THE
6 QUOTIENT OF THE SPECIFIC LOCAL TAX PAID DIVIDED BY THE AD VALOREM
7 MILLAGE RATE. THE STATE TAX COMMISSION SHALL PRESCRIBE THE METHOD
8 FOR CALCULATING THE INITIAL ASSESSED VALUE AND CURRENT ASSESSED
9 VALUE OF PROPERTY FOR WHICH A SPECIFIC LOCAL TAX WAS PAID IN LIEU
10 OF A PROPERTY TAX.

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

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

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

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

25 (iv) AD VALOREM PROPERTY TAXES EXCLUDED BY THE TAX INCREMENT
26 FINANCING PLAN OF THE AUTHORITY FROM THE DETERMINATION OF THE
27 AMOUNT OF TAX INCREMENT REVENUES TO BE TRANSMITTED TO THE AUTHORITY

Senate Bill No. 1589 as amended December 4, 2008

1 OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE AD VALOREM PROPERTY
2 TAXES.

3 (v) AD VALOREM PROPERTY TAXES EXEMPTED FROM CAPTURE UNDER
4 SUBSECTION (5) OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE AD
5 VALOREM PROPERTY TAXES.

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

11 (G) "ZONE" MEANS A TRANSIT DEVELOPMENT FINANCE ZONE
12 ESTABLISHED BY THE DEPARTMENT UNDER THIS SECTION.

13 Enacting section 1. Sections 2, 4, 6, 8, 10, 12, 14, 15, 16,
14 18, 20, 22, 24, 25, 28, 29, 30, 31, 31a, 32, 34, 35, and 36 of 1867
15 PA 35, MCL 472.2, 472.4, 472.6, 472.8, 472.10, 472.12, 472.14,
16 472.15, 472.16, 472.18, 472.20, 472.22, 472.24, 472.25, 472.28,
17 472.29, 472.30, 472.31, 472.31a, 472.32, 472.34, 472.35, and
18 472.36, are repealed.

<<Enacting section 1. This amendatory act does not take effect
unless all of the following bills of the 94th Legislature are enacted
into law:

- (a) House Bill No. 6542.
- (b) House Bill No. 6543.
- (c) House Bill No. 6546.
- (d) House Bill No. 6625.>>