

Act No. 486  
Public Acts of 2008  
Approved by the Governor  
January 9, 2009  
Filed with the Secretary of State  
January 12, 2009  
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**STATE OF MICHIGAN  
94TH LEGISLATURE  
REGULAR SESSION OF 2008**

Introduced by Senator Allen

# ENROLLED SENATE BILL No. 1589

AN ACT 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:*

## 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 officials; to provide remedies and penalties; to provide for the establishment of a transit development finance zone; and to authorize the use of tax increment financing.

Sec. 23. (1) At the request of a street railway, and with the consent of the department, a city, village, or township in which a street railway system is located may establish a transit operations finance zone for a street railway system if the city, village, or township and the department determine that it is necessary for the best interests of the public to promote and finance transit operations in a zone. A parcel shall not be included in more than 1 zone created under this section.

(2) The boundaries of a zone shall be established by the city, village, or township and may include parcels that are in whole or in part up to 1/4 mile in distance from the street railway system. Before establishing a zone, the city, village, or township shall consult with the street railway, the department, affected taxing jurisdictions, and any other person or entity that the city, village, or township considers necessary. The city, village, or township may conduct a planning study and may designate a zone before implementation of street railway system service within the zone.

(3) If the city, village, or township and the department determine that it is necessary for the best interests of the public to promote and finance transit operations in a zone under subsection (1), the city, village, or township shall enter into an agreement with the street railway and the department for the creation of a zone. The agreement shall include, but not be limited to, all of the following:

(a) The geographic boundaries of the zone, including both of the following:

(i) The designation of boundaries of the zone in relation to highways, streets, streams, lakes, other bodies of water, or otherwise.

(ii) The location and extent of existing streets and other public facilities within the zone, designating the location, character, and extent of the categories of public and private land uses then existing in the zone, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the zone.

(b) A tax increment financing plan for the zone as provided under subsection (4).

(c) A description of specific actions to be taken by the parties under the agreement to help establish the zone.

(d) The requirement that amendments to the agreement must be approved by the city, village, or township, the department, and the street railway.

(e) Any other material that the city, village, or township, the department, or the street railway consider necessary or appropriate.

(4) A tax increment financing plan for a zone established under this section shall include a description of the tax increment financing procedure, the distribution of tax increment financing revenue to the street railway, and a statement of the estimated impact of tax increment financing on the assessed value of property in each taxing jurisdiction in the zone. The plan may exclude from captured assessed value growth in property value resulting solely from inflation and, if so, shall include the method for excluding that growth. The plan shall require that tax increment revenue received by a street railway under the plan be used only for the expenses of operating the street railway system. If the street railway subject to an agreement designating a zone under this section ceases to operate a street railway system in the city, village, or township that established the zone, the plan shall terminate and the zone shall be abolished. The plan shall restrict the revenue distributed to a street railway for any tax year to the lesser of 25% of any operating deficit of the street railway for the prior fiscal year or \$4,000,000.00. Before including a tax increment financing plan in an agreement, the city, village, or township shall provide taxing jurisdictions in the zone levying taxes subject to capture under the plan an opportunity to meet with the city, village, or township. The city, village, or township shall fully inform the taxing jurisdictions of the fiscal and economic implications of the plan and the taxing jurisdictions may present recommendations to the city, village, or township on the tax increment financing plan.

(5) Before entering into an agreement for the creation of a zone under this section, the city, village, or township shall conduct a public hearing on the proposed agreement. Notice of the public hearing shall be published twice in a newspaper of general circulation in the city, village, or township, not less than 20 or more than 40 days before the date of the hearing. The notice shall state the date, time, and place of the hearing and shall describe the proposed boundaries of the zone. A citizen, taxpayer, or property owner of the city, village, or township, or an official from a taxing jurisdiction within the zone has the right to be heard on the agreement and the proposed boundaries of the zone. The agreement shall not include in the zone land not included in the description contained in the notice of public hearing, but the agreement may exclude described land from the zone in the final determination of the boundaries of the zone. A city, village, or township shall not execute an agreement for the creation of a zone under this section unless the city, village, or township finds that it is necessary for the best interests of the public to promote and finance transit operations in a zone.

(6) An agreement designating a zone and establishing its boundaries under this section and any amendments to the agreement shall be filed by the city, village, or township with the secretary of state.

(7) The municipal and county treasurers shall transmit tax increment revenues to the treasurer for the city, village, or township in which the street railway system is located for distribution to the street railway according to the tax increment financing plan and the agreement. The street railway shall expend the tax increment revenues only under the terms of the tax increment financing plan and the agreement under this section. Unused funds shall revert proportionately to the respective taxing jurisdictions. Tax increment revenues shall not be used to circumvent existing property tax limitations. The city, village, or township and the department may abolish the zone if the city, village, or township and the department find that the purposes for which the zone was established are accomplished. Annually, the city, village, or township, with assistance from the street railway, shall submit to the department and the state tax commission a report on the status of the tax increment financing revenue. The report shall include all of the following:

(a) The amount and source of tax increment revenue received by the street railway.

(b) The amount and purpose of expenditures from tax increment revenue.

(c) The initial assessed value of the zone.

(d) The captured assessed value retained within the zone.

(e) A description of operating expenditures of the street railway.

(8) The state tax commission may institute proceedings to compel enforcement of this section. The state tax commission may promulgate rules necessary for the administration of this section under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(9) As used in this section:

(a) "Assessed value" means the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(b) “Captured assessed value” means the amount in any 1 year by which the current assessed value of a zone, including the assessed value of property for which specific local taxes are paid in lieu of property taxes, exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(c) “Initial assessed value” means the assessed value of all the taxable property within the boundaries of a zone at the time the tax increment financing plan is approved, as shown by the most recent equalized assessment roll of the city, village, or township at the time an agreement is approved under this section. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation.

(d) “Parcel” means an identifiable unit of land that is treated as separate for valuation or zoning purposes.

(e) “Specific local tax” means a tax levied under 1974 PA 198, 1976 PA 430, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, the commercial rehabilitation act, 2005 PA 210, MCL 207.841 to 207.856, the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, or 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. The state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(f) “Tax increment revenues” means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the zone. Tax increment revenues do not include any of the following:

(i) Taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(ii) Taxes levied by local or intermediate school districts.

(iii) Taxes levied by a library established by 1901 LA 359.

(iv) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to the ad valorem property taxes.

(v) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to the ad valorem property taxes.

(vi) Ad valorem property taxes exempted from capture under this section or specific local taxes attributable to the ad valorem property taxes.

(vii) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific taxes attributable to those ad valorem property taxes.

(viii) Ad valorem taxes captured on property in a zone by any of the following authorities if the taxes were captured on the date that the property became subject to a tax increment financing plan under this section by any of the following authorities:

(A) A downtown development authority created under 1975 PA 197, MCL 125.1651 to 125.1681.

(B) A water resource improvement tax increment finance authority created under the water resource tax increment finance authority act, 2008 PA 94, MCL 125.1771 to 125.1794.

(C) A tax increment finance authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(D) A local development finance authority created under the local development finance authority act, 1986 PA 281, MCL 125.2151 to 125.2174.

(E) A brownfield redevelopment finance authority created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(F) A historical neighborhood tax increment finance authority created under the historical neighborhood tax increment finance authority act, 2004 PA 530, MCL 125.2841 to 125.2866.

(G) A corridor improvement authority created under the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.

(H) A neighborhood improvement authority created under the neighborhood improvement authority act, 2007 PA 61, MCL 125.2911 to 125.2932.

(g) “Zone” means a transit operations finance zone established under this section.

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

Enacting section 2. 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.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

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Governor