

1999 PUBLIC AND LOCAL ACTS

[No. 49]

(SB 484)

AN ACT to amend 1961 PA 120, entitled "An act to authorize the development or redevelopment of principal shopping districts of certain cities; to permit the creation of certain boards; 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, 3, 4, and 5 (MCL 125.981, 125.982, 125.983, 125.984, and 125.985), 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; and to authorize the collection of revenue and the bonding of certain cities for the development or redevelopment projects.

125.981 Definitions; principal shopping district; business improvement district; creation, appointment, and composition of board.
[M.S.A. 5.3533(1)]

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

(a) "Business improvement district" means 1 or more portions of a city or combination of contiguous portions of 2 or more cities that are predominantly commercial or industrial in use.

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

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

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

(2) A city with a master plan for the physical development of the city 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 cities that establish a business improvement district by resolution, may do 1 or more of the following:

(a) Open, widen, extend, realign, pave, maintain, or otherwise improve highways and construct, reconstruct, maintain, or relocate pedestrian walkways.

(b) Prohibit or regulate vehicular traffic where necessary to carry out the purposes of the development or redevelopment project.

(c) 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 city off-street parking lots or structures, 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.

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(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, and operation of a district within the city.

(3) A city 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 city government, 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 city with the concurrence of the legislative body of the city. 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 city 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 city as provided in this subsection. The board of a business improvement district shall consist of all of the following:

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

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(7) A city may create 1 or more business improvement districts.

(8) If 1 or more cities 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.

125.982 Principal shopping district project or business improvement district project; methods or criteria for financing costs. [M.S.A. 5.3533(2)]

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 act may be financed by 1 or more of the following methods:

(a) Grants and gifts to the city or district.

(b) City funds.

(c) The issuance of general obligation bonds of the city.

(d) The issuance of revenue bonds by the city 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, a bond, note, or other obligation issued to finance a project authorized under this act shall meet all of the following criteria:

(a) The proceeds of the bonds, notes, or other obligations are 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.

(b) The weighted average maturity of the bonds, notes, or other obligations does not exceed the useful life of the capital assets.

(c) The bonds, notes, or other obligations shall not in whole or in part appreciate in principal amount or be sold at a discount of more than 10%.

(d) If bonds, notes, or other obligations are issued to refund bonds, notes, or other obligations that meet the conditions described in subdivisions (a), (b), and (c), the net present value of the principal and interest to be paid on the refunding bonds, notes, or other obligations, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the bonds, notes, or other obligations being refunded, as calculated using a method approved by the department of treasury.

125.983 District project as public improvement. [M.S.A. 5.3533(3)]

Sec. 3. A district project as authorized by this act is a public improvement. The use in this act of the term "public improvement" does not prevent the levying of a special assessment for the cost of a part of a district project that represents special benefits.

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125.984 Development or redevelopment of district; single improvement. [M.S.A. 5.3533(4)]

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 city, may be financed as a single improvement.

125.985 Special assessments; levy; installment payments; maximum annual amounts; adjustment; special assessment bonds; full faith and credit; maturity; statutory or charter provisions; review; marketing and development plan. [M.S.A. 5.3533(5)]

Sec. 5. (1) If a city 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 city street improvements. If a city charter does not authorize special assessments for the purposes set forth in this act, the charter provisions authorizing special assessments for street improvements are made applicable to the purposes set forth in this act, 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 city, 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 a parcel on the basis of the special benefits to that parcel from the total project. To the extent that a parcel is used for residential purposes, the parcel shall not be considered to be benefited by a project for which special assessments are levied by a city pursuant to this act. There is a rebuttable presumption that a district project specially benefits all nonresidential properties 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 city after July 14, 1992. The special assessments annually levied on a parcel under this act 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 city 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. 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

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charter provisions applicable to the issuance by the city 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 city of special assessment bonds for street improvements.

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

(7) Before a city levies a special assessment under this act 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 city that levies a special assessment under this act that benefits property within a business improvement district is considered to have approved the marketing and development plan described in subsection (7).

This act is ordered to take immediate effect.

Approved June 14, 1999.

Filed with Secretary of State June 15, 1999.
