

# HOUSE BILL No. 5613

January 16, 2008, Introduced by Rep. Sak and referred to the Committee on Transportation.

A bill to provide for the establishment of regional infrastructure authorities; to provide powers and duties of an authority; to authorize an authority to impose and collect an excise tax on certain recreational activities; to limit the rate of the excise tax; to require voter approval of the excise tax; to authorize the issuance of bonds and notes by an authority; and to provide for the powers and duties of certain government officials.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "regional infrastructure authority act".

3           Sec. 3. As used in this act:

4           (a) "Admission charge" means the actual charge, excluding  
5 memberships, paid to attend the recreational activity.

1 (b) "Articles" means the articles of incorporation of an  
2 authority.

3 (c) "Authority" means a regional infrastructure authority  
4 created under section 5.

5 (d) "Board" means the board of directors of an authority.

6 (e) "Clerk of the commerce center" means the city, township,  
7 or village clerk of a city, township, or village that qualifies as  
8 a commerce center.

9 (f) "Commerce center" means that term as defined in the  
10 commerce center act.

11 (g) "Electors of the authority" means the qualified and  
12 registered electors of the participating commerce centers who  
13 reside within the territory of the authority.

14 (h) "Largest county" means, of those counties in which a  
15 participating commerce center is located, the county having the  
16 greatest population.

17 (i) "Recreational activity" means 1 or more of the following:

18 (i) Zoo.

19 (ii) Live theater.

20 (iii) Museum.

21 (iv) Opera.

22 (v) Professional sporting event.

23 (vi) Collegiate athletic event.

24 (vii) Concert.

25 (viii) Temporary or transient entertainment production.

26 (ix) Botanical gardens.

27 (x) Amusement parks.

1           (xi) Temporary or transient art, music, theatrical, dance,  
2 literary, or cultural festival.

3           (j) "Territory of the authority" means the combined territory  
4 of the participating commerce centers that is served by an  
5 authority.

6           Sec. 5. (1) Two or more commerce centers may establish a  
7 regional infrastructure authority. A regional infrastructure  
8 authority is an authority under section 6 of article IX of the  
9 state constitution of 1963.

10           (2) To initiate the establishment of an authority, articles of  
11 incorporation shall be prepared. The articles of incorporation  
12 shall include all of the following:

13           (a) The name of the authority.

14           (b) The names of the participating commerce centers.

15           (c) A description of the territory of the authority.

16           (d) The size of the board of the authority, which shall be  
17 comprised of an odd number of members; the qualifications, method  
18 of selection, and terms of office of board members; and the filling  
19 of vacancies in the office of board member. If board members are  
20 elected in at-large elections by the qualified and registered  
21 electors of the participating commerce centers, voting  
22 collectively, the election of board members shall be conducted  
23 pursuant to the same procedures that govern an election for a tax  
24 under sections 13 to 17.

25           (e) The purpose for which the authority is established is to  
26 fund eligible infrastructure projects in participating commerce  
27 centers. Eligible infrastructure projects include, but are not

1 limited to, any of the following:

2 (i) Mass transit.

3 (ii) Local roads.

4 (iii) Bridge repair or construction.

5 (f) The procedure and requirements for a commerce center to  
6 become a participating commerce center in, and for a participating  
7 commerce center to withdraw from, an existing authority or to join  
8 in the original formation of an authority. For a commerce center to  
9 become a participating commerce center in an existing authority or  
10 to join in the original formation of an authority, a majority of  
11 the electors of the commerce center proposed to be included in the  
12 territory of the authority and voting on the question shall approve  
13 a tax that the authority has been authorized to levy by a vote of  
14 the electors of the authority under section 11. A commerce center  
15 shall not withdraw from an authority during the period for which  
16 the authority has been authorized to levy a tax by the electors of  
17 the authority.

18 (g) Any other matters considered advisable.

19 (3) The articles shall be adopted and may be amended by an  
20 affirmative vote of a majority of the members serving on the  
21 legislative body of each participating commerce center. Unless the  
22 articles provide otherwise, the requirements of this subsection do  
23 not apply to an amendment to the articles to allow a commerce  
24 center to become a participating commerce center in, or to allow a  
25 participating commerce center to withdraw from, an existing  
26 authority.

27 (4) Before the articles or amendments to the articles are

1 adopted, the articles or amendments to the articles shall be  
2 published not less than once in a newspaper generally circulated  
3 within the participating commerce centers. The adoption of articles  
4 or amendments to the articles by a commerce center shall be  
5 evidenced by an endorsement on the articles or amendments by the  
6 clerk of the commerce center.

7 (5) Upon adoption of the articles or amendments to the  
8 articles by each of the participating commerce centers, a printed  
9 copy of the articles or the amended articles shall be filed with  
10 the secretary of state by the clerk of the last participating  
11 commerce center to adopt the articles or amendments.

12 (6) The authority's articles of incorporation, or amendments  
13 to the articles, take effect upon filing with the secretary of  
14 state.

15 Sec. 7. (1) A vacancy occurs on the board on the happening of  
16 any of the events set forth in section 3 of 1846 RS 15, MCL 201.3.  
17 Appointed members of the board, if any, may be removed by the  
18 appointing authority for good cause after a public hearing.  
19 Vacancies shall be filled in the same manner as the original  
20 appointment for the unexpired term.

21 (2) A majority of the members of the board constitute a quorum  
22 for the purpose of conducting business and exercising the powers of  
23 an authority. Official action may be taken by an authority upon the  
24 vote of a majority of the board members present, unless the  
25 authority adopts bylaws requiring a larger number.

26 (3) A member of the board shall not receive compensation for  
27 services as a member of the board but is entitled to reimbursement

1 for reasonable expenses, including expenses for travel previously  
2 authorized by the board, incurred in the discharge of his or her  
3 duties.

4 (4) The business that an authority may perform shall be  
5 conducted at a public meeting of the authority held in compliance  
6 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.  
7 Public notice of the time, date, and place of the meeting shall be  
8 given in the manner required by the open meetings act, 1976 PA 267,  
9 MCL 15.261 to 15.275.

10 (5) A writing prepared, owned, or used by an authority in the  
11 performance of an official function shall be made available in  
12 compliance with the freedom of information act, 1976 PA 442, MCL  
13 15.231 to 15.246.

14 (6) At its first meeting, a board shall elect a chairperson, a  
15 secretary, a treasurer, and any other officers it considers  
16 necessary. A board shall meet at least quarterly.

17 (7) A board may adopt bylaws to govern its procedures.

18 Sec. 9. An authority may do 1 or more of the following:

19 (a) Acquire and hold, by purchase, lease with or without  
20 option to purchase, grant, gift, devise, land contract, installment  
21 purchase contract, bequest, or other legal means, real and personal  
22 property inside or outside the territory of the authority. The  
23 property may include franchises, easements, or rights of way on,  
24 under, or above any property. The authority may pay for the  
25 property from, or pledge for the payment of the property, revenue  
26 of the authority.

27 (b) Apply for and accept grants or contributions from

1 individuals, the federal government or any of its agencies, this  
2 state, a municipality, or other public or private agencies to be  
3 used for any of the purposes of the authority.

4 (c) Hire full-time or part-time employees and retain  
5 professional services.

6 (d) Provide for the maintenance of all of the real and  
7 personal property of the authority.

8 (e) Assess and collect fees for services provided by and  
9 expenses incurred by the authority.

10 (f) Receive revenue as appropriated by the legislature of this  
11 state or a participating commerce center.

12 (g) Enter into contracts incidental to or necessary for the  
13 accomplishment of the purposes of the authority.

14 Sec. 11. (1) An authority may levy a tax on the admission  
15 charge of each recreational activity within the limits of the  
16 authority for the purpose of funding eligible infrastructure  
17 projects in participating commerce centers. The tax may be levied  
18 for a period as determined by the authority in the resolution  
19 calling the election and as set forth in the proposition submitted  
20 to voters. The rate of the tax levied on the admission charge of a  
21 recreational activity shall be as follows:

22 (a) If an authority consists of 2 commerce centers, not more  
23 than a 4% tax may be levied.

24 (b) If an authority consists of 3 or 4 commerce centers, not  
25 more than a 5% tax may be levied.

26 (c) If an authority consists of 5 or more commerce centers,  
27 not more than a 6% tax may be levied.

1           (2) The authority may levy the tax only upon the approval of a  
2 majority of the electors in each of the participating commerce  
3 centers of the authority voting on the tax at a statewide general  
4 or primary election. The proposal for a tax shall be submitted to a  
5 vote of the electors of the authority by resolution of the board.

6           (3) A ballot proposal for a tax shall state the amount and  
7 duration of the tax and the purposes for which the tax may be used.  
8 A proposal for a tax shall not be placed on the ballot unless the  
9 proposal is adopted by a resolution of the board and certified by  
10 the board not later than 60 days before the election to the county  
11 clerk of each county in which all or part of the territory of the  
12 authority is located for inclusion on the ballot. The proposal  
13 shall be certified for inclusion on the ballot at the next eligible  
14 election, as specified by the board's resolution.

15           (4) If a majority of the electors in each of the participating  
16 commerce centers of the authority voting on the question of a tax  
17 approve the proposal as provided under this section, the tax levy  
18 is authorized. Not more than 2 elections may be held in a calendar  
19 year on a proposal for a tax authorized under this act.

20           Sec. 13. (1) The county election commission of each county in  
21 which all or part of a participating commerce center is located  
22 shall provide ballots for an election for a tax under section 11  
23 for each participating commerce center located within the county.

24           (2) An election for a tax shall be conducted by the clerks and  
25 election officials of the commerce centers located within the  
26 territory of the authority.

27           (3) If a participating village that qualifies as a commerce

1 center is located within a nonparticipating township, the township  
2 clerk and election officials shall conduct the election. Not later  
3 than 45 days before the election, the village clerk shall provide  
4 to the township clerk a list containing the name, address, and  
5 birth date of each qualified and registered elector of the  
6 participating village residing in the territory of the authority.  
7 Not later than 15 days before the election, the village clerk shall  
8 provide to the township clerk information updating the list as of  
9 the close of registration. A person appearing on the list as  
10 updated is eligible to vote in the election by special ballot.

11 Sec. 15. (1) For an election for a tax under section 11, the  
12 notices of close of registration and election shall be published as  
13 provided for by the state election laws. The notice of close of  
14 registration shall include the ballot language of the proposal.

15 (2) The results of an election for a tax shall be canvassed by  
16 the board of county canvassers of each county in which a  
17 participating commerce center is located. The board of county  
18 canvassers of a county in which a participating commerce center is  
19 located and that is not the largest county shall certify the  
20 results of the election to the board of county canvassers of the  
21 largest county. The board of county canvassers of the largest  
22 county shall make the final canvass of an election for a tax based  
23 on the returns of the election inspectors of the participating  
24 commerce centers in that county and the certified results of the  
25 board of county canvassers of every other county in which a  
26 participating commerce center is located. The board of county  
27 canvassers of the largest county shall certify the results of the

1 election to the board of the authority.

2       Sec. 17. (1) A county clerk shall charge the authority and the  
3 authority shall reimburse the county for the actual costs the  
4 county incurs in an election for a tax under section 11.

5       (2) If a participating commerce center conducts an election  
6 for a tax, the clerk of that participating commerce center shall  
7 charge the authority and the authority shall reimburse the  
8 participating commerce center for the actual costs the  
9 participating commerce center incurs in conducting the election if  
10 the election is not held in conjunction with a regularly scheduled  
11 election in that commerce center.

12       (3) In addition to costs reimbursed under subsection (1) or  
13 (2), a county or commerce center shall charge the authority and the  
14 authority shall reimburse the county or commerce center for actual  
15 costs that the county or commerce center incurs and that are  
16 exclusively attributable to an election for a tax authorized under  
17 this act.

18       (4) The actual costs that a county or commerce center incurs  
19 shall be based on the number of hours of work done in conducting  
20 the election, the rates of compensation of the workers, and the  
21 cost of materials supplied in the election.

22       Sec. 19. The tax shall be collected with county taxes and  
23 distributed by the local tax collecting unit under the provisions  
24 of the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

25       Sec. 21. (1) An authority may borrow money and issue bonds or  
26 notes to finance eligible infrastructure projects.

27       (2) An authority shall not borrow money or issue bonds or

1 notes for a sum that, together with the total outstanding bonded  
 2 indebtedness of the authority, exceeds 2 mills of the taxable value  
 3 of the taxable property within the district as determined under  
 4 section 27a of the general property tax act, 1893 PA 206, MCL  
 5 211.27a.

6 (3) Bonds or notes issued by an authority are a debt of the  
 7 authority and not of the participating commerce centers.

8 (4) A tax levied to pay a bond or note obligation by a  
 9 regional infrastructure authority under this act shall not exceed 5  
 10 years without the approval of a majority of the electors in each of  
 11 the participating commerce centers of the authority.

12 (5) All bonds or notes issued by a regional infrastructure  
 13 authority under this act are subject to the revised municipal  
 14 finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

15 Sec. 23. (1) An authority may issue general obligation  
 16 unlimited tax bonds upon approval of a majority of the electors in  
 17 each of the participating commerce centers of the authority voting  
 18 on the question of issuing the bonds. The proposal to issue general  
 19 obligation unlimited tax bonds shall be submitted to a vote of the  
 20 electors of the authority by resolution of the board.

21 (2) The language of the ballot proposal shall be in  
 22 substantially the following form:

23 "Shall [name of authority], formed by [names of participating  
 24 commerce centers], borrow the sum of not to exceed \_\_\_\_\_  
 25 dollars (\$ \_\_\_\_\_) and issue its general obligation unlimited  
 26 tax bonds for all or a portion of that amount for the purpose of  
 27 \_\_\_\_\_?"

1           This is expected to result in an increase of \_\_\_\_\_ in the  
2 tax levied on property valued at \_\_\_\_\_ for a period of \_\_\_\_\_  
3 years.

4           Yes [ ] No [ ]".

5           (3) The election shall be conducted in the manner provided in  
6 sections 11 to 17 for an election for a tax. Not more than 2  
7 elections on the question of issuing general obligation unlimited  
8 tax bonds may be held in a calendar year.

9           (4) If an authority issues general obligation unlimited tax  
10 bonds under this section, the board, by resolution, shall authorize  
11 and levy the taxes necessary to pay the principal of and interest  
12 on the bonds.

13           Sec. 25. (1) An authority may borrow money and issue its  
14 negotiable bonds and notes for the purpose of refunding outstanding  
15 debt obligations of the district by resolution of the board,  
16 without submitting the question to the electors of the authority.

17           (2) Refunding bonds or the refunding part of a bond issue  
18 shall be considered to be within the 2-mill limitation of section  
19 21(2).

20           (3) An authority may borrow money and issue bonds or notes for  
21 refunding all or part of existing bonded or note indebtedness only  
22 if the net present value of the principal and interest to be paid  
23 on the refunding bonds or notes, excluding the cost of issuance,  
24 will be less than the net present value of the principal and  
25 interest to be paid on the bonds or notes being refunded, as  
26 calculated using a method approved by the department of treasury.

27           Sec. 27. (1) A board shall obtain an annual audit of the

1 authority, and report on the audit and auditing procedures, in the  
2 manner provided by sections 6 to 13 of the uniform budgeting and  
3 accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit shall  
4 also be in accordance with generally accepted government auditing  
5 standards as promulgated by the United States general accounting  
6 office and shall satisfy federal regulations relating to federal  
7 grant compliance audit requirements.

8 (2) An authority shall prepare budgets and appropriations acts  
9 in the manner provided by sections 14 to 19 of the uniform  
10 budgeting and accounting act, 1968 PA 2, MCL 141.434 to 141.439.

11 (3) The state treasurer, the attorney general, a prosecuting  
12 attorney, bank, certified public accountant, certified public  
13 accounting firm, or other person shall have the same powers,  
14 duties, and immunities with respect to the authority as provided  
15 for local units in sections 6 to 20 of the uniform budgeting and  
16 accounting act, 1968 PA 2, MCL 141.426 to 141.440.

17 (4) If an authority ends a fiscal year in a deficit condition,  
18 the authority shall file a financial plan to correct the deficit  
19 condition in the same manner as provided in section 21(2) of the  
20 Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL  
21 141.921.

22 (5) The board may authorize funds of the authority to be  
23 invested or deposited in any investment or depository authorized  
24 under section 1 of 1943 PA 20, MCL 129.91.