

LOCAL COMMUNITY STABILIZATION AUTHORITY ACT (EXCERPT)
Act 86 of 2014

123.1349 Authority council; establishment as governing body; membership; appointment; terms; vacancy; chairperson; oath of office; compensation; reimbursement for travel and expenses; discharge of duties; meeting; election of officers; conduct of business at public meeting; special meeting; availability of records to public; system of accounts; annual audit; budget; procurement policy; members as public servants; ethics manual; conflict of interest; removal from office.

Sec. 9. (1) The authority council is established as the governing body of the authority. The powers, duties, functions, and responsibilities of the authority are vested in the council. The council shall consist of 5 residents of this state appointed by the governor. Not less than 3 members of the council shall be residents of separate metropolitan areas within this state. An officer or employee of this state may not serve as a member of the council.

(2) Of the members of the council initially appointed by the governor, 1 member shall be appointed for an initial term of 5 years, 1 member shall be appointed for an initial term of 4 years, 1 member shall be appointed for an initial term of 3 years, 1 member shall be appointed for an initial term of 2 years, and 1 member shall be appointed for an initial term of 1 year. After the initial appointments, a member of the council shall be appointed for a term of 6 years. If a vacancy on the council occurs other than by expiration of a term, the vacancy shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member of the council may continue to serve until a successor is appointed and qualified. The governor shall designate a member of the council to serve as its chairperson at the pleasure of the governor.

(3) An individual appointed as a member of the council shall take the oath of office as provided under section 1 of article XI of the state constitution of 1963.

(4) A member of the council shall serve without compensation but may be reimbursed by the authority for necessary travel and expenses to the extent not prohibited by law and consistent with a reimbursement policy adopted by the council.

(5) A member of the council shall discharge the duties of his or her position in a nonpartisan manner, in good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the council, when acting in good faith, may rely upon any of the following:

(a) The opinion of legal counsel for the authority.

(b) The report of an independent appraiser selected by the council.

(c) Financial statements of the authority represented to the member of the council to be correct by the officer of the authority having charge of its books of account or stated in a written report by an auditor or a certified public accountant, or a firm of certified accountants, to reflect the financial condition of the authority.

(6) Within not more than 30 days following appointment of the initial members of the council, the council shall hold its first meeting at a date and time determined by the chairperson of the council. The council shall elect from among the members of the council an individual to serve as vice-chairperson of the council and secretary of the council and may elect other officers as the council considers necessary. All officers under this subsection shall be elected annually by the council.

(7) The council shall conduct its business at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The council shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, the council shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. A special meeting of the council may be called by the chairperson of the council or as provided in bylaws adopted by the council. Notice of a special meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) The council shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) The council shall provide for a system of accounts for the authority to conform to a uniform system required by law and for the auditing of the accounts of the authority. The council shall obtain an annual audit of the authority by an independent certified public accountant and report on the audit and auditing procedures

in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit also shall be in accordance with generally accepted government auditing standards.

(10) Before the beginning of each fiscal year, the council shall prepare a budget for the authority containing an itemized statement of the estimated expenses and revenue of the authority from all sources for the next fiscal year. Before final adoption of the budget, the council shall hold a public hearing as required by 1963 (2nd Ex Sess) PA 43, MCL 141.411 to 141.415, and the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The council shall adopt a budget for the fiscal year in compliance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(11) The council shall adopt a procurement policy consistent with the requirements of state law relating to procurement. The procurement policy shall address all of the following:

(a) The purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items as needed by the authority to efficiently and effectively meet the needs of the authority using competitive procurement methods to secure the best value for the authority.

(b) That the council shall make all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of authority contracts.

(c) Control, supervision, management, and oversight of each contract to which the authority is a party.

(d) Monitoring of contracts to assure the contract is being performed in compliance with the terms of the contract and applicable law.

(12) Members of the council are public servants subject to 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. The council shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The council shall require that a member of the council with a direct interest in any matter before the authority disclose the member's interest before the council takes any action with respect to the matter. The council shall establish an ethics manual for the authority governing authority business and the conduct of authority officers and employees. The authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the authority to preclude the opportunity for and the occurrence of transactions by the authority that would create a conflict of interest involving officers or employees of the authority. At a minimum, the policies shall include compliance by each officer or employee who regularly exercises significant discretion over the award and management of authority procurements with policies governing all of the following:

(a) Immediate disclosure of the existence and nature of any financial interest that could reasonably be expected to create a conflict of interest.

(b) Withdrawal by an officer or employee from participation in or discussion or evaluation of any recommendation or decision involving an authority procurement that would reasonably be expected to create a conflict of interest for that officer or employee.

(13) The governor may remove a member of the council from office for gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

History: 2014, Act 86, Eff. Aug. 22, 2014.

Compiler's note: Enacting section 2 of Act 86 of 2014 provides:

"Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

Enacting section 3 of Act 86 of 2014 provides:

"Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

Compiler's note: Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows:

"APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS"

The amendatory act adopted by the Legislature would:

1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan.

2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services.

3. Increase portion of state use tax dedicated for aid to local school districts.

4. Prohibit Authority from increasing taxes.

5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation.

Should this law be approved?

YES []

NO []".

Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.