

Act No. 126
Public Acts of 2013
Approved by the Governor
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Senator Kowall

ENROLLED SENATE BILL No. 257

AN ACT to amend 1961 PA 120, entitled “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; to provide for the creation, operation, and dissolution of business improvement zones; and to authorize the collection of revenue and the bonding of certain local governmental units for the development or redevelopment projects,” by amending sections 10, 10a, 10b, 10c, 10e, 10f, 10g, 10h, 10i, 10k, and 10l (MCL 125.990, 125.990a, 125.990b, 125.990c, 125.990e, 125.990f, 125.990g, 125.990h, 125.990i, 125.990k, and 125.990l), as added by 2001 PA 260, and by adding section 10n; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 10. As used in this chapter:

(a) “Assessable property” means real property in a zone area other than property classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, or real property exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(b) “Assessment” means an assessment imposed under this chapter against assessable property for the benefit of the property owners.

(c) “Assessment revenues” means the money collected by a business improvement zone from any assessments, including any interest on the assessments.

(d) “Board” means the board of directors of a business improvement zone.

(e) “Business improvement zone” means a business improvement zone created under this chapter.

(f) “Nonprofit corporation” means a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, and which complies with all of the following:

(i) The articles of incorporation of the nonprofit corporation provide that the nonprofit corporation may promote a business improvement zone and may also provide management services related to the implementation of a zone plan.

(ii) The nonprofit corporation is exempt from federal income tax under section 501(c)(4) or 501(c)(6) of the internal revenue code, 28 USC 501.

(g) “Person” means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(h) "Project" means any activity for the benefit of property owners authorized by section 10a to enhance the business environment within a zone area.

(i) "Property owner" means a person who owns, or an agent authorized in writing by a person who owns, assessable property according to the records of the treasurer of the city or village in which the business improvement zone is located.

(j) "10-year period" means the period in which a business improvement zone is authorized to operate, beginning on the date that the business improvement zone is created or renewed and ending 10 calendar years after that date.

(k) "Zone area" means the area designated in the zone plan as the area to be served by the business improvement zone.

(l) "Zone plan" means a set of goals, strategies, objectives, and guidelines for the operation of a business improvement zone, as approved at a meeting of property owners conducted under section 10d.

Sec. 10a. (1) A business improvement zone is a public body corporate and may do 1 or more of the following for the benefit of property owners located in the business improvement zone:

(a) Acquire, through purchase, lease, or gift, construct, develop, improve, maintain, operate, or reconstruct park areas, planting areas, and related facilities within the zone area.

(b) Acquire, construct, clean, improve, maintain, reconstruct, or relocate sidewalks, street curbing, street medians, fountains, and lighting within the zone area.

(c) Develop and propose lighting standards within the zone area.

(d) Acquire, plant, and maintain trees, shrubs, flowers, or other vegetation within the zone area.

(e) Provide or contract for security services with other public or private entities and purchase equipment or technology related to security services within the zone area.

(f) Promote and sponsor cultural or recreational activities.

(g) Engage in economic development activities, including, but not limited to, promotion of business, retail, or industrial development, developer recruitment, business recruitment, business marketing, business retention, public relations efforts, and market research.

(h) Engage in other activities with the purpose to enhance the economic prosperity, enjoyment, appearance, image, and safety of the zone area.

(i) Acquire by purchase or gift, maintain, or operate real or personal property necessary to implement this chapter.

(j) Solicit and accept gifts or grants to further the zone plan.

(k) Sue or be sued.

(l) Do all other acts and things necessary or convenient to exercise the powers, duties, and jurisdictions of the business improvement zone under this act or other laws that relate to the purposes, powers, duties, and jurisdictions of the business improvement zone.

(2) A business improvement zone may contract with a nonprofit corporation or any other public or private entity and may pay a reasonable fee to the nonprofit corporation or other public or private entity for services provided. Two or more business improvement zones may contract with the same nonprofit corporation or public or private entity under this subsection.

(3) A business improvement zone has the authority to borrow money in anticipation of the receipt of assessments if all of the following conditions are satisfied:

(a) The loan will not be requested or authorized, or will not mature, within 90 days before the expiration of the 10-year period.

(b) The amount of the loan does not exceed 50% of the annual average assessment revenue of the business improvement zone during the previous year or, in the case of a business improvement zone that has been in existence for less than 1 year, the loan does not exceed 25% of the projected annual assessment revenue.

(c) The loan repayment period does not extend beyond the 10-year period.

(d) The loan is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The services provided by and projects of a business improvement zone are services and projects of the business improvement zone and are not services, functions, or projects of the municipality in which the business improvement zone is located. The services provided by and projects of a business improvement zone are supplemental to the services, projects, and functions of the city or village in which the business improvement zone is located.

(5) The business improvement zone has no other authority than the authority described in this act or authorized by other laws of this state.

Sec. 10b. (1) One or more business improvement zones may be established within a city or village.

(2) If the zone plan for the area provides a basis for allocating assessments other than assessed value, the majority of all parcels included in a zone area, both by area and by taxable value, shall be assessable property. If the zone plan for the zone area provides for allocation of assessments based upon assessed value, the majority of all parcels included in a zone area, both by area and assessed value, shall be assessable property. A zone area shall be contiguous, with the exception of public streets, alleys, parks, and other public rights-of-way.

(3) A business improvement zone may be established in a city or village even if the city or village has established a principal shopping district or business improvement district under chapter 1. Assessable property shall not be included in any of the following:

- (a) More than 1 business improvement zone established under this chapter.
- (b) Both a principal shopping district and a business improvement district established under chapter 1.

Sec. 10c. A person may initiate the establishment of a business improvement zone by the delivery of a petition to the clerk of the city or village in which a proposed zone area is located. The petition shall include all of the following:

(a) An attached map and description of the geographic boundaries of the zone area sufficient to identify each assessable property included.

(b) The signatures of property owners of parcels representing not less than 30% of the property owners within the zone area, weighted as provided in section 10f(2).

(c) An attached listing, by tax parcel identification number, of all parcels within the zone area, separately identifying assessable property.

(d) An attached zone plan, which shall include all of the following:

(i) The proposed initial board of directors for the zone, except for a member of the board of directors who may be appointed by the city or village under section 10g(2).

(ii) The method for removal, appointment, and replacement of the board.

(iii) A description of projects planned during the 10-year period, including the scope, nature, and duration of the projects.

(iv) An estimate of the total amount of expenditures for projects planned during the 10-year period.

(v) The proposed source or sources of financing for the projects.

(vi) If the proposed financing includes assessments, the projected amount or rate of the assessments for each year and the basis upon which the assessments are to be imposed on assessable property.

(vii) A plan of dissolution for the business improvement zone.

(e) A basis for allocating assessments in the zone area, including, but not limited to, assessments based upon taxable value or assessments based upon assessed value.

Sec. 10e. (1) If a petition is delivered to the clerk of the city or village in accordance with section 10c, the governing body of the city or village shall within 28 days schedule a public hearing of the governing body to review the zone plan and any proposed assessment and to receive public comment. The clerk shall notify all owners of parcels within the zone area of the public hearing by first-class mail.

(2) At the public hearing required under subsection (1), or at the next regularly scheduled meeting of the governing body of the city or village, the governing body shall approve or reject the establishment of the business improvement zone and the zone plan attached to the petition under section 10c. If the governing body rejects the establishment of the business improvement zone and the zone plan, the clerk shall notify all property owners within the proposed zone of a meeting of the property owners within the proposed zone, which shall be held not sooner than 7 days or later than 21 days after the date of the rejection by the governing body. The notice shall be sent by first-class mail to the property owners not less than 7 days prior to the scheduled date of the meeting and shall include the specific location and the scheduled date and time of the meeting, as determined by the person initiating the establishment of the business improvement zone under section 10c(1). At the meeting, the property owners may amend the zone plan if approved by a majority of the property owners voting at the meeting. The votes of the property owners at the meeting shall be weighted in the manner indicated in section 10f(2). The amended zone plan may be resubmitted to the clerk of the city or village without the requirement of a new petition under section 10c for approval or rejection at a meeting of the governing body of the city or village not later than 28 days after the amended zone plan is resubmitted to the clerk. If a zone plan is not rejected within 56 days of the date the amended zone plan is resubmitted to the clerk, the amended zone plan is considered approved by the governing body of the city or village. If the amended zone plan is rejected by the governing body, then the amended zone plan may not be resubmitted without the delivery of a new petition under section 10c.

(3) A governing body of a city or village shall consider the establishment of a business improvement zone and a zone plan for the business improvement zone under subsection (2) if all of the following apply:

- (a) The zone plan complies with the requirements of section 10c.

(b) The zone plan for the business improvement zone provides that the services to be provided by the business improvement zone and the projects under the zone plan would be supplemental to the services, projects, and functions of the city or village.

(c) The zone plan provides a basis for allocating assessments that complies with this chapter.

(4) Approval of the business improvement zone and zone plan shall serve as a determination by the city or village that any assessment set forth in the zone plan, including the basis for allocating the assessment, is appropriate, subject only to the approval of the business improvement zone and the zone plan by the property owners in accordance with section 10f.

(5) If the governing body of the city or village approves the business improvement zone and zone plan or if the amended zone plan is considered approved under subsection (2), the clerk of the city or village shall set an election pursuant to section 10f not more than 49 days following the approval.

(6) The clerk of the city or village shall send to the property owners notice by first-class mail of the election not less than 28 days before the election and publish the notice at least once in a newspaper of general circulation in the city or village in which the zone area is located not less than 7 days or more than 21 days prior to the date scheduled for the election.

(7) The election described in this section and section 10f is not an election subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(8) The person who filed the petition under section 10c, the proposed board members, and the property owners may, at the option and under the direction of the clerk, assist the clerk of the city or village in conducting the election to keep the expenses of the election at a minimum.

Sec. 10f. (1) All property owners as of the date of the delivery of the petition as provided in section 10c are eligible to participate in the election. The election shall be conducted by mail. The question to be voted on by the property owners is the adoption of the zone plan and the establishment of the business improvement zone, including the identity of the initial board.

(2) If the zone plan for the zone area provides a basis for allocating assessments based upon taxable value, the votes of property owners shall be weighted in proportion to the amount that the taxable value of their respective real property for the preceding calendar year bears to the taxable value of all assessable property in the zone area. If the zone plan for the zone area provides for allocation of assessments based upon assessed value, the votes of property owners shall be weighted in proportion to the amount that the assessed value of their respective real property for the preceding calendar year bears to the assessed value of all assessable property in the zone area. If the zone plan for the zone area provides a basis for allocating assessments other than taxable value or assessed value, the votes of property owners shall be weighted in proportion to the amount that the weighted value for their respective real property bears to the total weighted value of all assessable property in the zone area. In no case shall the total number of votes assigned to any 1 property owner be equal to more than 25% of the total number of votes eligible to be cast in the election.

(3) A zone plan and the proposal for the establishment of a business improvement zone, including the identity of the initial board, shall be considered adopted upon the approval of more than 60% of the property owners voting in the election, with votes weighted as provided in subsection (2).

(4) Upon acceptance or rejection of a business improvement zone and zone plan by the property owners, the resulting business improvement zone or the person filing the petition under section 10c shall, at the request of the city or village, reimburse the city or village for all or a portion of the reasonable expenses incurred to comply with this chapter. The governing body of the city or village may forgive and choose not to collect all or a portion of the reasonable expenses incurred to comply with this chapter.

(5) Adoption of a business improvement zone and zone plan under this section authorizes the creation of the business improvement zone and the implementation of the zone plan for the 10-year period.

(6) Adoption of a business improvement zone and zone plan under this section and the creation of the business improvement zone does not relieve the business improvement zone from following, or does not waive any rights of the city or village to enforce, any applicable laws, statutes, or ordinances. A business improvement zone created under this chapter shall comply with all applicable state and federal laws.

(7) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1419, a city or village that approves a business improvement zone within its boundaries is immune from civil or administrative liability arising from any actions of that business improvement zone.

Sec. 10g. (1) The day-to-day activities of the business improvement zone and implementation of the zone plan shall be managed by a board of directors.

(2) The board shall consist of an odd number of directors and shall not be smaller than 5 and not larger than 15 in number. The board may include 1 director nominated by the chief executive of the city or village and confirmed by the governing body of the city or village. A nomination not disapproved by a governing body within 60 days shall stand confirmed.

(3) The duties and responsibilities of the board shall be prescribed in the zone plan and to the extent applicable shall include all of the following duties and responsibilities:

- (a) Developing administrative procedures relating to the implementation of the zone plan.
- (b) Recommending amendments to the zone plan.
- (c) Scheduling and conducting an annual meeting of the property owners.
- (d) Developing a zone plan for the next 10-year period.

(4) Members of the board shall serve without compensation. However, members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

Sec. 10h. (1) A business improvement zone may be funded in whole or in part by 1 or more assessments on assessable property, as provided in the zone plan. An assessment under this chapter shall be in addition to any taxes or special assessments otherwise imposed on assessable property. The business improvement zone, with the approval of the board, may enter into agreements with 1 or more property owners in the city or village providing for the provision of business zone activities or services to the property owner or owners by the business improvement zone in exchange for monetary contributions to the business improvement zone from the property owner or owners. An agreement providing for the provision of business zone activities or services described in this subsection shall be in writing and shall be made available to all property owners of assessable property in the zone area.

(2) An assessment shall be imposed against assessable property only on the basis of the benefits to assessable property afforded by the zone plan. There is a rebuttable presumption that a zone plan and any project specially benefits all assessable property in a zone area.

(3) If a zone plan provides for an assessment, the treasurer of the city or village in which the zone area is located as an agent of the business improvement zone shall collect the assessment imposed by the board under the zone plan on all assessable property within the zone area in the amount authorized by the zone plan.

(4) Except as provided in subsection (6), assessments shall be collected by the treasurer of the city or village as an agent of the business improvement zone from each property owner and remitted promptly to the business improvement zone. Assessment revenue is the property of the business improvement zone and not the city or village in which the business improvement zone is located. The business improvement zone may, at the option and under the direction of the treasurer, assist the treasurer of the city or village in collecting the assessment to keep the expenses of collecting the assessment at a minimum.

(5) The business improvement zone may institute a civil action to collect any delinquent assessment and interest.

(6) An assessment is delinquent if it has not been paid within 90 days after it was due as provided under the zone plan imposed under this chapter. Delinquent assessments shall be collected by the business improvement zone. Delinquent assessments shall accrue interest at a rate of 1.5% per month until paid.

(7) If any portion of the assessment has not been paid within 90 days after it was due, that portion of the unpaid assessment shall constitute a lien on the property. The lien amount shall be for the unpaid portion of the assessment and shall include any applicable interest. Alternatively, a delinquent and unpaid assessment may, at the request of the business improvement zone, be returned as delinquent by the treasurer of the city or village and collected in the same manner as a delinquent tax special assessment along with any associated interest, fees, and costs under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155. However, property is not subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for nonpayment of an assessment under this chapter unless the property also is subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for delinquent property taxes. If a parcel of assessable property that has a delinquent and unpaid assessment is sold to a purchaser who is not related or affiliated to the seller, as determined by the board, the board may reduce or eliminate any delinquent and unpaid assessment on that parcel of assessable property if the property is not subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a. If the delinquent property taxes are paid, the property may not be forfeited, foreclosed, and sold for an unpaid assessment under this chapter.

Sec. 10i. (1) Expenses incurred in implementing any project or service of a business improvement zone shall be financed in accordance with the zone plan.

(2) Assessment revenues under section 10h are the funds of the business improvement zone and not funds of the state or of the city or village in which the business improvement zone is located. All money collected under section 10h shall be deposited in a financial institution in the name of the business improvement zone. Assessment revenues may be deposited in an interest generating account. The business improvement zone shall use the funds only to implement the zone plan.

(3) All expenditures by a business improvement zone shall be audited annually by a certified public accountant. The audit shall be completed within 9 months of the close of the fiscal year of the business improvement zone. Within 30 days after completion of an audit, the certified public accountant shall transmit a copy of the audit to the board and make copies of the audit available to the property owners and the public.

(4) If an annual audit required by this section contains material exceptions, the board of the business improvement zone shall within 90 days of the delivery of the audit adopt a plan to remedy the exceptions and forward a copy of that plan to the city or village in which the business improvement zone is located.

(5) The board shall publish an annual activity and financial report. The report shall be available to the public. Each year, every property owner shall be notified of the availability of the annual activity and financial report.

(6) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or of the United States.

Sec. 10k. (1) Prior to the expiration of any 10-year period, the board shall notify the property owners within the business improvement zone of a special meeting by first-class mail at least 14 days prior to the scheduled date of the meeting to approve a new zone plan for the next 10-year period. Notice under this section shall include the specific location, scheduled date, and time of the meeting.

(2) Approval of the new zone plan at the special meeting by more than 60% of the property owners of assessable property voting at that meeting, with the vote of the property owners being weighted in accordance with section 10f(2), constitutes reauthorization of the business improvement zone for an additional 10-year period, commencing as of the expiration of the 10-year period then in effect. If the new zone plan reflects any new assessment, or reflects an extension of any assessment beyond the period previously approved by the city or village in which the business improvement zone is located, the new or extended assessment shall be effective only with the approval of the governing body of the city or village.

Sec. 10l. (1) Upon written petition duly signed by 30% of the property owners of assessable property within a zone area and submitted no sooner than 2 years following the adoption of the business improvement zone and zone plan, the board shall place on the agenda of the next annual meeting, if the next annual meeting is to be held not later than 63 days after receipt of the written petition or a special meeting not to be held later than 63 days after receipt of the written petition, the issue of dissolution of the business improvement zone. Notice of the next annual meeting or special meeting described in this subsection shall be made to all property owners by first-class mail not less than 14 days prior to the date of the annual or special meeting. The notice shall include the specific location and the scheduled date and time of the meeting.

(2) The business improvement zone shall be dissolved upon a vote of more than 50% of the property owners of assessable property voting at the meeting, with the votes of the property owners weighted in accordance with section 10f(2). A dissolution shall not take effect until the later of the end of the second calendar year after the vote for dissolution or all contractual liabilities of the business improvement zone have been paid and discharged.

(3) Upon dissolution of a business improvement zone, the board shall dispose of the remaining physical assets of the business improvement zone. The proceeds of any physical assets disposed of by the business improvement zone and all money collected through assessments that is not required to defray the expenses of the business improvement zone shall be refunded on a pro rata basis to persons from whom assessments were collected. If the board finds that the refundable amount is so small as to make impracticable the computation and refunding of the money, it may be transferred to the treasurer of the city or village in which the business improvement zone is located for deposit in the treasury of the city or village to the credit of the general fund.

(4) Upon dissolution of a business improvement zone, any remaining assets of the business improvement zone shall be transferred to the treasurer of the city or village in which the business improvement zone is located for deposit in the treasury of the city or village to the credit of the general fund.

Sec. 10n. (1) Two or more business improvement zones within the same city or village may merge into a single business improvement zone if the board of each business improvement zone approves a merger agreement among the merging zones and the merger agreement also is approved by the governing body of the city or village in which the zones are located.

(2) The merger agreement shall include, without limitation, a manner of selecting the board of directors of the merged business improvement zone, a zone plan for the merged business improvement zone, and a plan for establishing and collecting assessments under the merged business improvement zone.

Enacting section 1. Section 10d of 1961 PA 120, MCL 125.990d, is repealed.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor