



# SENATE BILL No. 573

June 6, 1995, Introduced by Senators SCHUETTE, STILLE, NORTH, MC MANUS, ROGERS, GOUGEON, GAST and CISKY and referred to the Committee on Local, Urban and State Affairs.

A bill to amend the title and sections 31 and 32 of Act No. 183 of the Public Acts of 1943, entitled as amended "The county rural zoning enabling act," being sections 125.231 and 125.232 of the Michigan Compiled Laws; and to add sections 33 and 40.

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

1 Section 1. The title and sections 31 and 32 of Act No. 183  
2 of the Public Acts of 1943, being sections 125.231 and 125.232 of  
3 the Michigan Compiled Laws, are amended and sections 33 and 40  
4 are added to read as follows:

5 TITLE

6 An act to provide for the establishment in portions of coun-  
7 ties lying outside the limits of incorporated cities and villages  
8 of zoning districts within which the proper use of land and  
9 natural resources may be encouraged or regulated by ordinance,

1 and for which districts provisions may also be adopted  
2 designating the location of, the size of, the uses that may be  
3 made of, the minimum open spaces, sanitary, safety, and protec-  
4 tive measures that are required for, and the maximum number of  
5 families that may be housed in dwellings, buildings, and struc-  
6 tures that are erected or altered; to designate the use of cer-  
7 tain state licensed residential facilities; to provide for a  
8 method for the adoption of ordinances and amendments to ordi-  
9 nances; to provide for emergency interim ordinances; to provide  
10 by ordinance for the acquisition by purchase, condemnation, or  
11 otherwise, of property that does not conform to the requirements  
12 of the zoning districts so provided; to provide for the adminis-  
13 tering of ordinances adopted; to provide for conflicts with other  
14 acts, ordinances, or regulations; to provide sanctions for viola-  
15 tions; to provide for the assessment, levy, and collection of  
16 taxes; to provide for referenda; to provide for appeals; ~~and to~~  
17 ~~provide for the repeal of acts in conflict with this act~~ TO  
18 AUTHORIZE THE TRANSFER OF DEVELOPMENT RIGHTS; TO AUTHORIZE THE  
19 ESTABLISHMENT OF AUTHORITIES TO PURCHASE AND HOLD DEVELOPMENT  
20 RIGHTS; TO GRANT THE POWER OF EMINENT DOMAIN; AND TO AUTHORIZE  
21 THE PURCHASE OF DEVELOPMENT RIGHTS.

22       Sec. 31. (1) ~~This act shall be known and may be cited as~~  
23 ~~"The county rural zoning enabling act."~~ THE COUNTY BOARD OF COM-  
24 MISSIONERS OF A COUNTY MAY ADOPT AN ORDINANCE TO AUTHORIZE THE  
25 TRANSFER OF DEVELOPMENT RIGHTS TO ACHIEVE A DEVELOPMENT RIGHTS  
26 BENEFIT. THE ORDINANCE SHALL REQUIRE THAT, AS PART OF THE  
27 DETERMINATION TO TRANSFER DEVELOPMENT RIGHTS, THERE BE SPECIFIED

1 THE DEVELOPMENT RIGHTS THAT WILL REMAIN ON THE PROPERTY FROM  
2 WHICH THE DEVELOPMENT RIGHTS ARE TO BE TRANSFERRED AND THE MEANS  
3 BY WHICH THE LIMITATION OF USE OF THE PROPERTY SHALL BE LEGALLY  
4 FIXED AND SHALL RUN WITH THE LAND. THE ORDINANCE SHALL SPECIFY  
5 ALL OF THE FOLLOWING RELATIVE TO THE TRANSFER OF DEVELOPMENT  
6 RIGHTS:

7 (A) THE DEVELOPMENT RIGHTS BENEFITS THAT THE COUNTY MAY  
8 SEEK.

9 (B) THE PROCEDURES BY WHICH A TRANSFER OF DEVELOPMENT RIGHTS  
10 MAY BE INITIATED BY THE COUNTY OR BY A PROPERTY OWNER, INCLUDING  
11 THE PROCEDURE AND DOCUMENTATION TO BE USED FOR THE TRANSFER OF  
12 DEVELOPMENT RIGHTS.

13 (C) THE TYPE OF DEVELOPMENT RIGHTS THAT MAY BE TRANSFERRED.

14 (D) THE STANDARDS TO BE USED BY THE COUNTY BOARD OF COMMIS-  
15 SIONERS IN DETERMINING WHETHER TO GRANT A TRANSFER OF DEVELOPMENT  
16 RIGHTS.

17 (E) THE STANDARDS AND PROCEDURE FOR EVALUATING AND SPECIFY-  
18 ING ALL OF THE FOLLOWING:

19 (i) THE DEVELOPMENT RIGHTS TO BE TRANSFERRED, INCLUDING A  
20 FORMULA FOR MEASURING DEVELOPMENT RIGHTS.

21 (ii) THE USE OF DEVELOPMENT RIGHTS THAT WILL REMAIN ON THE  
22 PROPERTY FROM WHICH THE TRANSFER OF DEVELOPMENT RIGHTS IS MADE.

23 (iii) THE IDENTITY OF THE PROPERTY TO WHICH THE TRANSFER OF  
24 DEVELOPMENT RIGHTS IS MADE.

25 (iv) THE DEVELOPMENT PERMITTED, AFTER THE TRANSFER, ON THE  
26 PROPERTY TO WHICH THE TRANSFER OF DEVELOPMENT RIGHTS IS MADE.

1 (F) WHETHER THE TRANSFER OF DEVELOPMENT RIGHTS TO OTHER  
2 LOCAL UNITS OF GOVERNMENT IS PERMITTED AND, IF SO, THE CONTENTS  
3 OF AN AGREEMENT TO BE EXECUTED BY THE LEGISLATIVE BODIES OF THE  
4 LOCAL UNITS OF GOVERNMENT PROVIDING FOR THE TRANSFER OF DEVELOP-  
5 MENT RIGHTS.

6 (G) THE LOCATION OF SENDING ZONES.

7 (H) THE LOCATION OF RECEIVING ZONES. THE CAPACITY OF THE  
8 RECEIVING ZONES SHALL BE SUFFICIENT TO RECEIVE ALL DEVELOPMENT  
9 RIGHTS FROM THE SENDING ZONES.

10 (2) THE ORDINANCE AUTHORIZING THE TRANSFER OF DEVELOPMENT  
11 RIGHTS SHALL NOT TAKE EFFECT UNTIL THE COUNTY PREPARES A REPORT  
12 THAT INCLUDES ALL OF THE FOLLOWING:

13 (A) THE PRECISE LOCATION OF EACH PROPOSED SENDING AND  
14 RECEIVING ZONE.

15 (B) AN ESTIMATE OF POPULATION AND ECONOMIC GROWTH DURING THE  
16 NEXT 10 YEARS IN THE COUNTY AND EACH PROPOSED RECEIVING ZONE.

17 (C) AN ESTIMATE OF THE DEVELOPMENT POTENTIAL OF EACH PRO-  
18 POSED SENDING AND RECEIVING ZONE.

19 (D) AN ESTIMATE OF THE EXISTING AND PROPOSED INFRASTRUCTURE  
20 OF EACH PROPOSED RECEIVING ZONE.

21 (E) FOR EACH PROPOSED RECEIVING ZONE, AN ANALYSIS OF THE  
22 IMPACT UPON AND CONSISTENCY WITH THE COUNTY DEVELOPMENT PLAN OF  
23 THE TRANSFER OF DEVELOPMENT RIGHTS TO THAT RECEIVING ZONE.

24 (F) A STATEMENT OF THE LIMITATIONS UPON THE DEVELOPMENT  
25 RIGHTS THAT MAY BE TRANSFERRED TO EACH RECEIVING ZONE, TAKING  
26 INTO CONSIDERATION ALL OF THE FOLLOWING OBJECTIVES:

1 (i) ENSURING CONSISTENCY WITH THE COUNTY DEVELOPMENT PLAN.

2 (ii) ENSURING ADEQUATE SERVICES AND FACILITIES CONSISTENT  
3 WITH THE SERVICES AND FACILITIES PLAN FOR THE RECEIVING ZONE, IN  
4 TERMS OF BOTH CAPACITY AND AVAILABILITY.

5 (iii) AVOIDING UNDUE BURDEN UPON THE PEOPLE AND LAND WITHIN  
6 THE RECEIVING ZONE.

7 (iv) ENSURING CONSISTENCY WITH THE PURPOSES OF THIS SECTION  
8 AND WITH THIS ACT.

9 (3) AN ORDINANCE ADOPTED UNDER THIS SECTION OR SECTION 32  
10 APPLIES IN ADDITION TO OTHER LAWS AND ORDINANCES ADOPTED TO  
11 ACHIEVE SIMILAR PURPOSES. NEITHER THIS SECTION NOR SECTION 32  
12 INVALIDATES A LAW OR ORDINANCE THAT DOES NOT CONTEMPLATE CONSID-  
13 ERATION BEING GIVEN FOR THE ACHIEVEMENT OF THE PURPOSES OF THIS  
14 SECTION.

15 (4) EXCEPT AS PROVIDED IN SECTION 32, THE TRANSFER OF DEVEL-  
16 OPMENT RIGHTS FROM PROPERTY IN A SENDING ZONE SHALL COINCIDE WITH  
17 THE RECEIPT OF THOSE DEVELOPMENT RIGHTS BY PROPERTY IN A RECEIV-  
18 ING ZONE.

19 Sec. 32. (1) ~~Act No. 79 of the Public Acts of 1929,~~  
20 ~~except as hereinbefore provided, is hereby repealed.~~ TO ACHIEVE  
21 A DEVELOPMENT RIGHTS BENEFIT, THE COUNTY BOARD OF COMMISSIONERS  
22 OF A COUNTY THAT HAS ADOPTED AN ORDINANCE UNDER SECTION 31 MAY  
23 ESTABLISH AN AUTHORITY FOR THE PURPOSE OF PURCHASING AND TEMPO-  
24 RARILY HOLDING DEVELOPMENT RIGHTS.

25 (2) IF THE COUNTY BOARD OF COMMISSIONERS WISHES TO ESTABLISH  
26 AN AUTHORITY, THE COUNTY BOARD OF COMMISSIONERS SHALL ADOPT A  
27 RESOLUTION OF INTENT, SETTING A DATE FOR A PUBLIC HEARING ON

1 WHETHER AN ORDINANCE ESTABLISHING AN AUTHORITY SHOULD BE  
2 ADOPTED. NOTICE OF THE PUBLIC HEARING SHALL BE PUBLISHED IN A  
3 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY, NOT LESS THAN 20  
4 OR MORE THAN 40 DAYS BEFORE THE DATE OF THE HEARING. THE NOTICE  
5 SHALL STATE THE TIME, DATE, AND PLACE OF THE HEARING, AND SHALL  
6 INCLUDE A STATEMENT DESCRIBING THE PURPOSE OF THE AUTHORITY.  
7 AFTER THE HEARING, THE COUNTY BOARD OF COMMISSIONERS MAY ADOPT AN  
8 ORDINANCE ESTABLISHING THE AUTHORITY.

9 (3) EXCEPT AS PROVIDED IN THIS SUBSECTION, AN AUTHORITY  
10 SHALL CONSIST OF 5 MEMBERS. THE MEMBERS SHALL INCLUDE THE COUNTY  
11 TREASURER, AND 4 MEMBERS AT LARGE APPOINTED FOR 3-YEAR TERMS BY  
12 THE COUNTY BOARD OF COMMISSIONERS. HOWEVER, IN A COUNTY ORGA-  
13 NIZED UNDER ACT NO. 293 OF THE PUBLIC ACTS OF 1966, BEING SEC-  
14 TIONS 45.501 TO 45.521 OF THE MICHIGAN COMPILED LAWS, OR ACT  
15 NO. 139 OF THE PUBLIC ACTS OF 1973, BEING SECTIONS 45.551 TO  
16 45.573 OF THE MICHIGAN COMPILED LAWS, THE MEMBERS SHALL INCLUDE  
17 THE ELECTED COUNTY EXECUTIVE, APPOINTED CHIEF ADMINISTRATIVE  
18 OFFICER, OR APPOINTED COUNTY MANAGER; THE COUNTY TREASURER; AND 3  
19 MEMBERS AT LARGE APPOINTED FOR 3-YEAR TERMS BY THE COUNTY BOARD  
20 OF COMMISSIONERS. IN ANY COUNTY, 1 OF THE MEMBERS AT LARGE SHALL  
21 BE A REPRESENTATIVE OF DEVELOPMENT INTERESTS. A MEMBER AT LARGE  
22 SHALL BE A RESIDENT OF THE COUNTY, SHALL HOLD OFFICE UNTIL HIS OR  
23 HER SUCCESSOR IS APPOINTED, AND SHALL SERVE AT THE PLEASURE OF  
24 THE COUNTY BOARD OF COMMISSIONERS. THE ORDINANCE CREATING THE  
25 AUTHORITY MAY PROVIDE THAT THE COUNTY BOARD OF COMMISSIONERS  
26 SHALL SERVE AS THE AUTHORITY BOARD. THE MEMBERS OF THE AUTHORITY  
27 SHALL ELECT A CHAIRPERSON OF THE AUTHORITY. IF THE COUNTY HAS

1 ENTERED AN INTERGOVERNMENTAL AGREEMENT FOR THE CREATION OF A  
2 JOINT AUTHORITY, THE AGREEMENT SHALL SPECIFY THE MEMBERSHIP AND,  
3 IF APPLICABLE, THE MANNER OF APPOINTMENT OF AUTHORITY MEMBERS.

4 (4) A MEMBER OF THE AUTHORITY SHALL SERVE WITHOUT COMPENSA-  
5 TION, BUT SHALL BE REIMBURSED FOR ACTUAL AND REASONABLE  
6 EXPENSES.

7 (5) ACTIVITIES OF THE AUTHORITY SHALL BE FINANCED BY 1 OR  
8 MORE OF THE FOLLOWING SOURCES:

9 (A) MONEY PROVIDED BY THE COUNTY.

10 (B) PROCEEDS FROM THE SALE OF DEVELOPMENT RIGHTS.

11 (C) GRANTS.

12 (D) DONATIONS.

13 (E) OTHER SOURCES APPROVED BY THE COUNTY BOARD OF  
14 COMMISSIONERS.

15 (6) THE AUTHORITY MAY ACQUIRE BY PURCHASE OR CONDEMNATION  
16 PURSUANT TO THE UNIFORM CONDEMNATION PROCEDURES ACT, ACT NO. 87  
17 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 213.51 TO 213.77 OF  
18 THE MICHIGAN COMPILED LAWS, DEVELOPMENT RIGHTS ON PROPERTY  
19 LOCATED IN A SENDING ZONE IN THE COUNTY. TITLE TO THE DEVELOP-  
20 MENT RIGHTS SHALL BE TAKEN AND HELD IN THE NAME OF THE COUNTY.

21 (7) AT ITS DISCRETION, THE AUTHORITY MAY HOLD OR SELL DEVEL-  
22 OPMENT RIGHTS THAT IT HAS ACQUIRED. THE AUTHORITY SHALL SELL  
23 DEVELOPMENT RIGHTS ONLY TO A PURCHASER WHO WILL DO 1 OF THE  
24 FOLLOWING:

25 (A) UTILIZE THE DEVELOPMENT RIGHTS IN A RECEIVING ZONE IN  
26 ACCORDANCE WITH THE ORDINANCE ADOPTED PURSUANT TO SECTION 31.

1 (B) PERMANENTLY TERMINATE THE DEVELOPMENT RIGHTS BY OPEN  
2 SPACE EASEMENT TO THE CITY OR VILLAGE, DEED RESTRICTION, OR OTHER  
3 LAWFUL MEANS, IN A MANNER AND FORM APPROVED BY THE AUTHORITY.

4 (8) THE PURCHASE AND SALE OF DEVELOPMENT RIGHTS BY THE  
5 AUTHORITY SHALL BE AT FAIR MARKET VALUE, BASED UPON A BONA FIDE  
6 APPRAISAL. UNLESS THE COUNTY BOARD OF COMMISSIONERS SERVES AS  
7 THE AUTHORITY, THE PURCHASE AND SALE OF DEVELOPMENT RIGHTS BY THE  
8 AUTHORITY SHALL BE SUBJECT TO APPROVAL BY THE COUNTY BOARD OF  
9 COMMISSIONERS.

10 SEC. 33. (1) BY ORDINANCE, THE COUNTY BOARD OF COMMISSION-  
11 ERS OF A COUNTY MAY AUTHORIZE THE PURCHASE OF DEVELOPMENT RIGHTS  
12 BY THE COUNTY TO ACHIEVE A PUBLIC PURPOSE OR BENEFIT PERMITTED IN  
13 THE EXERCISE OF AUTHORITY UNDER THIS ACT. THE COUNTY MAY PUR-  
14 CHASE THE DEVELOPMENT RIGHTS BY VOLUNTARY SALE OR BY  
15 CONDEMNATION. THE ORDINANCE SHALL REQUIRE THAT, AS PART OF THE  
16 DETERMINATION TO PURCHASE DEVELOPMENT RIGHTS, THERE SHALL BE  
17 SPECIFIED THE DEVELOPMENT RIGHTS THAT WILL REMAIN ON THE PROPERTY  
18 FROM WHICH THE DEVELOPMENT RIGHTS ARE TO BE TRANSFERRED AND THE  
19 MEANS BY WHICH THE LIMITATION OF USE OF THE PROPERTY SHALL BE  
20 LEGALLY FIXED AND SHALL RUN WITH THE LAND. THE ORDINANCE SHALL  
21 SPECIFY ALL OF THE FOLLOWING RELATIVE TO THE PURCHASE OF DEVELOP-  
22 MENT RIGHTS:

23 (A) THE PUBLIC PURPOSES OR BENEFITS THAT THE COUNTY MAY  
24 SEEK.

25 (B) THE PROCEDURES BY WHICH A PURCHASE OF DEVELOPMENT RIGHTS  
26 MAY BE INITIATED BY THE COUNTY OR BY A PROPERTY OWNER.

1 (C) THE TYPE OF DEVELOPMENT RIGHTS THAT MAY BE PURCHASED.

2 (D) THE STANDARDS TO BE USED BY THE COUNTY BOARD OF  
3 COMMISSIONERS IN DETERMINING WHETHER TO PURCHASE DEVELOPMENT  
4 RIGHTS.

5 (E) THE STANDARDS TO BE USED BY THE COUNTY BOARD OF COMMIS-  
6 SIONERS IN EVALUATING AND SPECIFYING THE DEVELOPMENT RIGHTS THAT  
7 WILL REMAIN ON THE PROPERTY AFTER THE PURCHASE.

8 (F) THE STANDARDS TO BE USED IN ESTABLISHING THE PRICE IN A  
9 PURCHASE IN WHICH AN EXERCISE OF THE POWER OF EMINENT DOMAIN IS  
10 NOT CONTEMPLATED.

11 (2) IF A COUNTY ADOPTS AN ORDINANCE PURSUANT TO THIS SEC-  
12 TION, A PERSON MAY PETITION THE COUNTY BOARD OF COMMISSIONERS FOR  
13 THE PURCHASE OF DEVELOPMENT RIGHTS AND FOR THE ESTABLISHMENT OF A  
14 SPECIAL ASSESSMENT DISTRICT TO PAY FOR ALL OR A PORTION OF THE  
15 DEVELOPMENT RIGHTS. THE PETITION SHALL CONTAIN ALL OF THE  
16 FOLLOWING:

17 (A) A DESCRIPTION OF THE DEVELOPMENT RIGHTS TO BE PURCHASED,  
18 INCLUDING A LEGAL DESCRIPTION OF THE REAL PROPERTY FROM WHICH THE  
19 PURCHASE IS TO BE MADE.

20 (B) A DESCRIPTION OF THE PROPOSED SPECIAL ASSESSMENT  
21 DISTRICT.

22 (C) THE SIGNATURES OF THE OWNERS OF AT LEAST 51% OF THE LAND  
23 IN THE PROPOSED SPECIAL ASSESSMENT DISTRICT.

24 (3) THE COUNTY BOARD OF COMMISSIONERS MAY PURCHASE DEVELOP-  
25 MENT RIGHTS PETITIONED FOR UNDER SUBSECTION (2) IF THE COUNTY  
26 BOARD OF COMMISSIONERS DETERMINES THAT THE PURCHASE OF THE  
27 DEVELOPMENT RIGHTS WOULD ACCOMPLISH A PUBLIC PURPOSE OR BENEFIT

1 SET FORTH IN THE ORDINANCE AND WOULD BE IN THE BEST INTEREST OF  
2 THE COUNTY. IF THE COUNTY BOARD OF COMMISSIONERS PURCHASES THE  
3 DEVELOPMENT RIGHTS PETITIONED FOR UNDER SUBSECTION (2), THE  
4 COUNTY BOARD OF COMMISSIONERS SHALL PROCEED WITH RESPECT TO THE  
5 SPECIAL ASSESSMENTS IN THE MANNER PROVIDED BY LAW OR CHARTER FOR  
6 FINANCING THE ACQUISITION OF PARK LANDS BY SPECIAL ASSESSMENTS.

7 (4) AN ORDINANCE ADOPTED UNDER THIS SECTION APPLIES IN ADDI-  
8 TION TO OTHER LAWS AND ORDINANCES ADOPTED TO ACHIEVE SIMILAR  
9 PURPOSES. THIS SECTION DOES NOT IMPLY THAT LAWS AND ORDINANCES  
10 THAT DO NOT CONTEMPLATE CONSIDERATION BEING GIVEN FOR THE  
11 ACHIEVEMENT OF THE PURPOSES OF THIS SECTION ARE INVALID.

12 SEC. 40. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS "THE  
13 COUNTY ZONING ACT".