

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1130

A bill to amend 1978 PA 361, entitled "Michigan exposition and fairgrounds act," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14a, and 15a (MCL 285.161, 285.162, 285.163, 285.164, 285.165, 285.166, 285.167, 285.168, 285.169, 285.170, 285.171, 285.172, 285.173, 285.174a, and 285.175a), sections 2, 5, 6, 7, 8, 9, and 11 as amended and sections 14a and 15a as added by 2000 PA 39, and by adding sections 15 and 15b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to provide for the control and management of certain

3

state exposition centers and fairgrounds; to create a state

4

exposition center and fairgrounds ~~—council—~~ **authority and board**

5

within the department of management and budget; to prescribe

6

~~—its—~~ **the authority's and board's** powers and duties; to provide

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1 for the appointment of a state exposition center and fairgrounds
 2 manager and to prescribe the manager's powers and duties; to
 3 designate the method of financing state exposition centers and
 4 fairgrounds; **to create certain funds; to provide for [appropriations**
 5 **];** and to repeal ~~certain~~ acts and parts of acts.

6 Sec. 1. This act shall be known and may be cited as the
 7 "Michigan exposition and fairgrounds **authority** act".

8 Sec. 2. As used in this act:

9 (a) ~~"Council"~~ **"Authority"** means the state exposition and
 10 fairgrounds ~~council~~ **authority** created in section 9.

11 (b) **"Authority board"** means the board for the authority
 12 appointed under section 9.

13 (c) ~~(b)~~ "Department" means the department of ~~agriculture~~
 14 **management and budget**.

15 (d) ~~(e)~~ "Director" means the director of the department.

16 (e) ~~(d)~~ "Fund" means the state exposition and fairgrounds
 17 fund created in section 14a.

18 (f) ~~(e)~~ "Manager" means the manager of the ~~state~~
 19 ~~exposition and fairgrounds~~ **authority appointed under section 4**.

20 (g) **"Type I transfer"** means that term as defined in section
 21 3 of the executive organization act of 1965, 1965 PA 380, MCL
 22 16.103.

23 Sec. 3. (1) This act ~~shall~~ **does** not apply to the Upper
 24 Peninsula state fair conducted under ~~Act No. 89 of the Public~~
 25 ~~Acts of 1927, as amended, being sections 285.141 to 285.142 of~~
 26 ~~the Michigan Compiled Laws 1927 PA 89, MCL 285.141 to 285.145.~~

27 (2) This act ~~shall~~ **does** not apply to a fair conducted by a

1 county of this state, or to a fair conducted under the official
2 authorization of the county board of commissioners or other duly
3 constituted county regional authority.

4 (3) This act shall not apply to uses of fairgrounds
5 permitted under ~~Act No. 80 of the Public Acts of 1941, being~~
6 ~~section 285.151 of the Michigan Compiled Laws 1941 PA 80, MCL~~
7 285.151.

8 Sec. 4. (1) ~~A state exposition and fairgrounds office is~~
9 ~~created in the office of the director. The Michigan exposition~~
10 and fairgrounds authority is created as a public body corporate
11 within the department. The authority shall be administered under
12 the supervision of the department but shall exercise its
13 prescribed statutory power, duties, and functions independently
14 of the department.

15 (2) The activities, powers, duties, functions,
16 responsibilities, and rule-making authority of the department of
17 agriculture related to the management of the state exposition and
18 fairgrounds are transferred by type I transfer to the authority.

19 (3) All records, personnel, property, grants, and unexpended
20 balances of appropriations, allocations, and other funds used,
21 held, employed, available, or to be made available to the
22 department of agriculture for the activities, powers, duties,
23 functions, and responsibilities are transferred to the
24 authority. The state budget director shall determine and
25 authorize the most efficient manner possible for handling
26 financial transactions and records in the state's financial
27 management system for the remainder of the fiscal year ending

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1 September 30, 2005.

2 (4) The governor shall appoint a manager **of the authority**
 3 ~~[upon subject to]~~ the advice and consent of the senate, who ~~shall be~~ **is**
 4 exempt from the classified state civil service. The manager
 5 shall **serve at the pleasure of the governor. The manager shall**
 6 administer the business ~~operation~~ **operations** of the state fair
 7 **and the authority** as provided in this act. The manager shall
 8 receive compensation determined annually by the ~~legislature~~
 9 **authority. [The person serving as manager on February 28, 2005 shall**
continue to serve at the pleasure of the governor.]

10 Sec. 5. The control of all land and other property held or
 11 acquired by ~~the~~ **this** state or its people for the purpose of
 12 holding and conducting agricultural and industrial fairs and
 13 exhibitions is vested in the ~~department~~ **authority.**

14 Sec. 6. (1) The ~~department~~ **authority** shall do all of the
 15 following:

16 (a) Conduct an annual state fair and other exhibits or events
 17 for the purpose of promoting all phases of the economy of this
 18 state. This fair and the exhibits or events shall encourage and
 19 demonstrate agricultural, industrial, commercial, **educational,**
 20 **entertainment, tourism, technological, cultural,** and recreational
 21 pursuits.

22 (b) Lease the state exposition and fairgrounds, a portion of
 23 the state exposition and fairgrounds, or a building on the state
 24 exposition and fairgrounds for purposes considered by the
 25 ~~department~~ **authority** to be consistent with the staging of the
 26 state fair and other exhibits or events. The ~~department~~
 27 **authority** may determine and impose rental charges and other fees

1 for the use or lease of the buildings and grounds or a portion of
2 the buildings and grounds. The ~~department~~ **authority** may lease
3 properties to private and public organizations for a period not
4 to exceed 30 years for consideration established by the
5 ~~department~~ **authority**. The ~~department~~ **authority** may grant
6 leases for all or a portion of the state exposition and
7 fairgrounds to private and public organizations, conditional upon
8 construction and improvements according to plans approved by the
9 ~~department~~ **authority** to be financed by the lessees, for terms
10 not to exceed 30 years. The ~~department~~ **authority** may grant an
11 extension of the lease term for not more than an additional 20
12 years. The use of the state exposition and fairgrounds, a
13 portion of the state exposition and fairgrounds, or a building on
14 the state exposition and fairgrounds shall not interfere with the
15 preparation for or holding of the state fair and other exhibits
16 or events. Land, a building, or other property that is leased
17 under this subdivision to a for-profit business shall be leased
18 at fair market value. All leases and contracts entered into
19 under this act remain valid until the expiration of the term of
20 the lease or contract.

21 (c) Enter into contracts, **subject to the requirements of the**
22 **management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594,**
23 to conduct the annual state fair, exhibits, or other events, at
24 the state exposition and fairgrounds that enhance agricultural,
25 industrial, commercial, recreational, educational, **entertainment,**
26 **tourism, technological,** or cultural pursuits or government
27 services to citizens.

1 (2) The authority may enter into cooperative agreements,
2 contracts, or other agreements with 1 or more governmental
3 entities to use the personnel, services, or facilities of the
4 governmental entity to assist the authority with carrying out its
5 duties under this act and as otherwise provided by law.

6 Sec. 7. (1) The ~~department~~ **authority** annually shall
7 present a report to the governor, the legislature, and the
8 ~~council~~ **department** describing the receipts or expenditures
9 through appropriation, gift, grant, or conveyance that have a
10 material bearing on the operation of the state fair or the state
11 exposition and fairgrounds.

12 (2) ~~An annual audit of the books and records of the state~~
13 ~~exposition and fairgrounds shall be made by the auditor general~~
14 **The authority shall be subject to annual post audits of its**
15 **financial transactions and accounts and to performance post**
16 **audits by the auditor general.**

17 (3) The ~~department shall~~ **authority may** promulgate rules
18 governing the conduct of the annual state fair and state
19 exposition and fairgrounds and the development and administration
20 of the state exposition and fairgrounds as a commercial,
21 agricultural, recreational, and multipurpose facility, pursuant
22 to the administrative procedures act of 1969, 1969 PA 306, MCL
23 24.201 to 24.328. **Any rules in effect on the effective date of**
24 **the amendatory act that added this sentence shall remain in**
25 **effect until rescinded by the authority.**

26 Sec. 8. The manager shall do all of the following:

27 (a) Be directly responsible to the ~~director~~ **authority.**

1 (b) Be the chief administrative officer for the management
2 and operation of the state exposition and fairgrounds, and may
3 enter into contracts and leases, **subject to the requirements of**
4 **the management and budget act, 1984 PA 431, MCL 18.1101 to**
5 **18.1594**, as authorized by rule promulgated under this act.

6 (c) Have as a primary work station the site of the state
7 exposition and fairgrounds.

8 (d) ~~Through the department, hire all~~ **Serve as an appointing**
9 **authority for any** necessary personnel associated with the
10 management and operation of the state exposition and
11 fairgrounds.

12 (e) Be responsible for the financial operation of the state
13 exposition and fairgrounds.

14 (f) Develop ideas and programs that enhance the operation and
15 functioning of the state exposition and fairgrounds.

16 (g) Be responsible for the preparation of the annual budget
17 for the state exposition and fairgrounds for presentation to the
18 department.

19 (h) **Develop and present to the authority board for its**
20 **approval each of the following:**

21 (i) A financial plan submitted annually.

22 (ii) A rolling 5-year operations plan submitted annually.

23 (iii) A facility and utility renovation plan, updated as
24 determined by the manager or as requested by the authority
25 board.

26 (iv) A long-range master plan for authority facilities and
27 the state exposition and fairgrounds, updated as determined by

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1 the manager or as requested by the authority board.

2 Sec. 9. (1) A state exposition and fairgrounds ~~council is~~
3 ~~established within the department~~ **authority shall be governed by**
4 **the 11-member authority board appointed under this section.** The
5 ~~council~~ **authority board** shall consist of the following
6 members:

7 (a) The director or a designated representative **as an ex**
8 **officio voting member.**

9 (b) The director of the department of ~~natural resources~~
10 **agriculture** or a designated representative **as an ex officio**
11 **voting member.**

12 (c) Nine members, not more than 5 of whom shall be members
13 of the same political party, appointed by the governor by and
14 with the consent of the senate. The term of office of each
15 member in this subdivision shall be 3 years except that, of the
16 members first appointed, ~~2~~ 3 shall serve for 1 year, 3 shall
17 serve for 2 years, and ~~4~~ 3 shall serve for 3 years. ~~In case~~
18 ~~of vacancy, an appointment to fill the vacancy shall be made in~~
19 ~~the same manner as the original appointment for the unexpired~~
20 ~~term. Three members shall be engaged in the agriculture~~
21 ~~industry, 1 member shall represent labor, 2 members shall~~
22 ~~represent business, 1 member shall be from the travel industry,~~
23 ~~and 2 members shall be from the general public. The former state~~
24 **exposition and fairgrounds council existing before [March] 1,**
25 **2005 is abolished. The governor shall appoint the 9 appointed**
26 **members to serve on the authority board, and the terms of those**
27 **members shall begin on March 1, 2005. Members of the former**

1 council are eligible for appointment to the authority board if
2 otherwise qualified. It is the intent of the legislature that
3 the members of the authority board represent all geographic areas
4 of the state. The 9 appointed members shall be chosen from the
5 following categories:

6 (i) Three members representing agricultural interests.

7 (ii) One member representing the tourism industry in
8 Michigan.

9 (iii) Two members of the general public.

10 (iv) One member representing organized labor.

11 (v) One member representing the business community.

12 (vi) One member representing county fairs.

13 (2) Upon appointment to the authority board under subsection
14 (1), and upon the taking and filing of the constitutional oath of
15 office, a member of the authority board shall enter the office
16 and exercise the duties of the office.

17 (3) Regardless of the cause of a vacancy on the authority
18 board, the governor shall fill a vacancy in the office of a
19 member of the authority board by appointment by and with the
20 advice and consent of the senate. A vacancy shall be filled for
21 the balance of the unexpired term. A member of the authority
22 board shall hold office until a successor has been appointed and
23 has qualified.

24 (4) Members of the authority board and officers and
25 employees of the authority are subject to 1968 PA 317, MCL 15.321
26 to 15.330. A member of the authority board or an officer,
27 employee, or agent of the authority board shall discharge the

1 duties of his or her position in a nonpartisan manner, with good
2 faith, and with that degree of diligence, care, and skill that an
3 ordinarily prudent person would exercise under similar
4 circumstances in a like position. In discharging his or her
5 duties, a member of the authority board or an officer, employee,
6 or agent of the authority board, when acting in good faith, may
7 rely upon the opinion of counsel for the authority, upon the
8 report of an independent appraiser selected with reasonable care
9 by the authority board, or upon financial statements of the
10 authority represented to the member of the authority board,
11 officer, employee, or agent to be correct by the officer of the
12 authority having charge of its books or account, or stated in a
13 written report by the auditor general or a certified public
14 accountant or the firm of the accountants fairly to reflect the
15 financial condition of the authority.

16 (5) The authority board may adopt bylaws and policies and
17 procedures for conducting its business. Six members of the
18 authority board constitute a quorum for the transaction of
19 business. An action of the authority board requires a concurring
20 vote by 6 members of the authority board.

21 (6) ~~(2) Council~~ Authority board members shall ~~be paid a~~
22 ~~per diem~~ serve without compensation and shall receive
23 reimbursement ~~of~~ for actual and necessary expenses.

24 (7) ~~(3) The council~~ governor shall designate a member of
25 the authority board to serve as its chairperson, who shall serve
26 as chairperson at the pleasure of the governor. The authority
27 board shall annually select ~~a chairperson and~~ other officers

1 from its membership.

2 (8) ~~(4)~~ The director and the director of the department of
3 ~~natural resources~~ **agriculture** shall not serve as officers of
4 the ~~council~~ **authority board**.

5 (9) ~~(5)~~ The ~~council~~ **authority board** shall ~~be provided~~
6 ~~staff assistance by the department to carry out its functions and~~
7 ~~shall~~ meet not less than 4 times per year.

8 (10) **At least 1 meeting of the authority board shall be**
9 **dedicated to soliciting input from the local neighborhood**
10 **advisory council established under section 15b, the surrounding**
11 **communities, and local units of government.**

12 Sec. 10. (1) The business ~~which~~ **that** the ~~council~~
13 **authority board** may perform shall be conducted at a public
14 meeting of the ~~council~~ **authority board** held in compliance with
15 ~~Act No. 267 of the Public Acts of 1976, being sections 15.261~~
16 ~~to 15.275 of the Michigan Compiled Laws~~ **the open meetings act,**
17 **1976 PA 267, MCL 15.261 to 15.275.** Public notice of the time,
18 date, and place of the meeting shall be given in the manner
19 required by ~~Act No. 267 of the Public Acts of 1976~~ **the open**
20 **meetings act, 1976 PA 267, MCL 15.261 to 15.275.**

21 (2) A writing prepared, owned, used, in the possession of,
22 or retained by the ~~council~~ **authority board** or department in the
23 performance of an official function shall be made available to
24 the public in compliance with ~~Act No. 442 of the Public Acts of~~
25 ~~1976, being sections 15.231 to 15.246 of the Michigan Compiled~~
26 ~~Laws~~ **the freedom of information act, 1976 PA 442, MCL 15.231 to**
27 **15.246.**

1 (3) The authority may employ legal and technical experts and
2 other officers, agents, or employees, permanent or temporary,
3 paid from the funds of the authority. The authority shall
4 determine the qualifications, duties, and compensation of those
5 it employs consistent with requirements established by the civil
6 service commission, but an employee shall not be paid a higher
7 salary than the manager. The authority board may delegate to 1
8 or more members, officers, agents, or employees any powers or
9 duties it considers proper.

10 (4) The authority may contract with the department for the
11 purpose of maintaining and improving the rights and interests of
12 the authority.

13 Sec. 11. ~~The council~~ Except as otherwise provided in this
14 act, the authority board shall do all things necessary or
15 convenient to implement the purposes, objectives, and provisions
16 of this act, and the purposes, objectives, and powers delegated
17 to the authority by other laws or executive orders, including,
18 but not limited to, all of the following:

19 (a) Review and approve policies, including dates for the fair
20 and the budget.

21 (b) Develop and submit to the department, the legislature,
22 and the governor on a yearly basis a rolling 5-year operational
23 plan and construction plan, including a master plan for the use
24 of buildings and the grounds.

25 (c) ~~(a) Advise~~ Report to the director, the legislature, and
26 the governor on the operating budget, capital improvements,
27 programs, exhibits, and other matters relevant to the state

1 exposition and fairgrounds.

2 ~~(b) Advise the director relative to the selection of a~~
 3 ~~manager before selection.~~

4 ~~(d) —(c) Advise the director with regard to~~ **Approve [or authorize**
 5 **the manager to approve]**

6 utilization of the state exposition and fairgrounds, including
 7 its use as the site for the annual state fair, and on any other
 8 matter which the ~~council~~ **authority** may regard as appropriate.

9 ~~(e) —(d) Promote, encourage, and assist the director and~~
 10 the manager in conducting exhibits or other events at the state
 11 exposition and fairgrounds that enhance agricultural, industrial,
 12 commercial, recreational, educational, or cultural pursuits or
 13 government service to citizens.

14 ~~(e) Perform other functions the director or the manager~~
 15 ~~requests.~~

16 Sec. 12. (1) In staging the annual state fair, the
 17 ~~department~~ **authority** may enter into licensing agreements with
 18 concessionaires permitting games of skill which shall be
 19 conducted in accordance with the following criteria:

20 (a) Winning the game of skill does not require great skill
 21 on the part of the participant.

22 (b) The game does not constitute a fraud upon the
 23 participants.

24 (c) The game is not similar to games of chance in which
 25 winning depends primarily upon fortuitous or accidental
 26 circumstances beyond the control of the participant including
 27 games such as roulette, beano, cards, dice, or wheels of fortune
 28 ~~—nor is— and the game —one which includes— does not include a~~

1 mechanical or physical device ~~which~~ **that** directly or indirectly
2 impedes, impairs, or thwarts the skill of the player.

3 (d) If the game is a group or contest participation game,
4 each participant shall be in attendance at the time the game is
5 played and shall actively participate throughout the entire game
6 by personally designating his or her target, goal, or desired
7 objective. A winner shall be determined by the skill of 1 or
8 more of the participants in the group or contest game, and each
9 participant shall be randomly selected. ~~, and a~~ **The**
10 distribution of prizes shall be made in the presence of each
11 participant at the time the game is played.

12 (e) The prize has nominal value and is not redeemable or
13 convertible into cash, directly or indirectly.

14 (2) The department may promulgate rules pursuant to ~~Act~~
15 ~~No. 306 of the Public Acts of 1969, as amended~~ **the**
16 **administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**
17 **24.328**, consistent with the criteria established in subsection
18 (1) to regulate the conduct of games of skill during the annual
19 state fair and to protect the public from unauthorized or
20 dishonest practices in conducting those games.

21 (3) The department may, after ~~a~~ **an administrative** hearing
22 held pursuant to ~~Act No. 306 of the Public Acts of 1969, as~~
23 ~~amended~~ **the administrative procedures act of 1969, 1969 PA 306,**
24 **MCL 24.201 to 24.328**, revoke the licensing agreement of a
25 concessionaire if the department determines that the public is
26 being defrauded, or that this act or a rule promulgated pursuant
27 to this act is being violated.

1 (4) The department may promulgate rules pursuant to ~~Act~~
2 ~~No. 306 of the Public Acts of 1969, as amended~~ **the**
3 **administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**
4 **24.328**, to permit the operation of a bingo or a millionaire party
5 permitted and licensed under ~~Act No. 382 of the Public Acts of~~
6 ~~1972, as amended, being sections 432.101 to 432.120 of the~~
7 ~~Michigan Compiled Laws~~ **the Traxler-McCauley-Law-Bowman bingo**
8 **act, 1972 PA 382, MCL 432.101 to 432.120.** The ~~department~~
9 **authority** may lease facilities as a location within or at which
10 an organization qualified and licensed under ~~Act No. 382 of the~~
11 ~~Public Acts of 1972, as amended,~~ **that act** may conduct bingo or a
12 millionaire party.

13 Sec. 13. (1) Sections 301 to ~~315 of Act No. 328 of the~~
14 ~~Public Acts of 1931, as amended, being sections 750.301 to~~
15 ~~750.315 of the Michigan Compiled Laws, shall~~ **315a of the**
16 **Michigan penal code, 1931 PA 328, MCL 750.301 to 750.315a, do not**
17 apply to a person who conducts or participates in a game of skill
18 pursuant to section 12 or the rules promulgated under that
19 section.

20 (2) The department may lease its facilities as a location
21 within or at which an organization qualified and licensed under
22 ~~Act No. 382 of the Public Acts of 1972, as amended, being~~
23 ~~sections 432.101 to 432.120 of the Michigan Compiled Laws~~ **the**
24 **Traxler-McCauley-Law-Bowman bingo act, 1972 PA 382, MCL 432.101**
25 **to 432.120**, may conduct bingo.

26 Sec. 14a. (1) The state exposition and fairgrounds fund is
27 created within the state treasury. **The fund shall be**

1 **administered by the authority.**

2 (2) The state treasurer shall direct the investment of the
3 fund. The state treasurer shall credit to the fund interest and
4 earnings from fund investments. The state treasurer may receive
5 money or other assets from any source for deposit into the fund.

6 ~~All of the following shall be deposited in the fund:~~

7 ~~—— (a) Money appropriated from the general fund for the purpose~~
8 ~~of holding a state fair that is unencumbered and unspent at the~~
9 ~~close of the fiscal year. (b) Money generated from the~~
10 operation of activities authorized by this act **shall be deposited**
11 **into the fund.**

12 (3) Money in the fund at the close of the fiscal year shall
13 remain in the fund and shall not lapse to the general fund.

14 (4) The ~~department~~ **authority** shall submit an annual report
15 to the legislature and the ~~council~~ **department** showing the
16 amount of money received under this act and how that money was
17 spent.

18 (5) ~~Upon appropriation,~~ **The** money in the fund shall be
19 expended **pursuant to appropriation of the legislature** by the
20 ~~director, with the advice of the council, to provide~~ **authority**
21 **in the following order of priority:**

22 (a) **Providing** for an annual state fair. ~~—, the maintenance~~
23 ~~of~~

24 (b) **Maintaining** the state exposition and fairgrounds. ~~—, and~~
25 ~~for any~~

26 (c) **Any other** purpose authorized ~~in section 6~~ **under this**
27 **act.**

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1 Sec. 15. [(1)] For the fiscal year ending September 30, 2004,
2 there is appropriated \$625,000.00 from the state exposition and
3 fairgrounds fund for Michigan state fair payment of premiums to
4 exhibitors and for payments due to vendors and others regarding
5 outstanding invoices for the annual state fair held in calendar
6 year 2004. Payment for premiums to exhibitors shall be made
7 before payment to vendors and others.

 [(2) For the fiscal year ending September 30, 2005, there is
appropriated \$192,700.00 from the general fund to Lake Superior State
University for an infrastructure, technology, equipment, and maintenance
grant.]

8 Sec. 15a. The ~~department~~ **authority** may demolish or permit
9 the demolition of any building or structure on the state
10 exposition and fairgrounds that is determined by the ~~director~~
11 **authority** to be unsuitable for uses consistent with the holding
12 of the state fair.

13 Sec. 15b. (1) The **authority** shall develop a newsletter to
14 be published not less often than twice per calendar year for
15 residents of the surrounding area of the state exposition and
16 fairgrounds. The **authority** shall make the newsletter available
17 electronically on its website and, if requested, by mail.

18 (2) The minutes of the meeting of the **authority** board shall
19 be posted on the **authority's** website.

20 (3) The **authority** shall establish a local neighborhood
21 advisory council for the purpose of public input on the
22 **authority's** activities.

23 [Enacting section 1. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
24 13, 14a, and 15a of the Michigan exposition and fairgrounds act, 1978 PA
361, MCL 285.161, 285.162, 285.163, 285.164, 285.165, 285.166, 285.167,
285.168, 285.169, 285.170, 285.171, 285.172, 285.173, 285.174a, and
285.175a, as amended by this amendatory act, and section 15b of the
Michigan exposition and fairgrounds act, 1978 PA 361, as added by this
amendatory act, take effect March 1, 2005.]