

HOUSE BILL No. 5038

August 13, 2003, Introduced by Reps. Taub, LaJoy and Shulman and referred to the Committee on Commerce.

A bill to amend 1980 PA 450, entitled
"The tax increment finance authority act,"
by amending section 1 (MCL 125.1801), as amended by 1998 PA 499.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Advance" means a transfer of funds made by a
3 municipality to an authority or to another person on behalf of
4 the authority. Evidence of the intent to repay an advance is
5 required and may include, but is not limited to, an executed
6 agreement to repay, provisions contained in a tax increment
7 financing plan approved before the advance or before August 14,
8 1993, or a resolution of the authority or the municipality.

9 (b) "Assessed value" means 1 of the following:

10 (i) For valuations made before January 1, 1995, the state
11 equalized valuation as determined under the general property tax

1 act, 1893 PA 206, MCL 211.1 to 211.157.

2 (ii) For valuations made after December 31, 1994, taxable
3 value as determined under section 27a of the general property tax
4 act, 1893 PA 206, MCL 211.27a.

5 (c) "Authority" means a tax increment finance authority
6 created under this act.

7 (d) "Authority district" means that area within which an
8 authority exercises its powers and within which 1 or more
9 development areas may exist.

10 (e) "Board" means the governing body of an authority.

11 (f) "Captured assessed value" means the amount in any 1 year
12 by which the current assessed value of the development area,
13 including the assessed value of property for which specific local
14 taxes are paid in lieu of property taxes as determined in
15 subdivision (w), exceeds the initial assessed value. The state
16 tax commission shall prescribe the method for calculating
17 captured assessed value.

18 (g) "Chief executive officer" means the mayor or city
19 manager of a city, the president of a village, or the supervisor
20 of a township.

21 (h) "Development area" means that area to which a
22 development plan is applicable.

23 (i) "Development area citizens council" or "council" means
24 that advisory body established pursuant to section 20.

25 (j) "Development plan" means that information and those
26 requirements for a development set forth in section 16.

27 (k) "Development program" means the implementation of the

1 development plan.

2 (l) "Eligible advance" means an advance made before
3 August 19, 1993.

4 (m) "Eligible obligation" means an obligation issued or
5 incurred by an authority or by a municipality on behalf of an
6 authority before August 19, 1993 and its subsequent refunding by
7 a qualified refunding obligation. Eligible obligation includes
8 an authority's written agreement entered into before August 19,
9 1993 to pay an obligation issued after August 18, 1993 and before
10 December 31, 1996 by another entity on behalf of the authority.

11 (n) "Fiscal year" means the fiscal year of the authority.

12 (o) "Governing body" means the elected body of a
13 municipality having legislative powers.

14 (p) "Initial assessed value" means the assessed value, as
15 equalized, of all the taxable property within the boundaries of
16 the development area at the time the resolution establishing the
17 tax increment financing plan is approved as shown by the most
18 recent assessment roll of the municipality for which equalization
19 has been completed at the time the resolution is adopted.

20 Property exempt from taxation at the time of the determination of
21 the initial assessed value shall be included as zero. For the
22 purpose of determining initial assessed value, property for which
23 a specific local tax is paid in lieu of a property tax shall not
24 be considered property that is exempt from taxation. The initial
25 assessed value of property for which a specific tax was paid in
26 lieu of a property tax shall be determined as provided in
27 subdivision (w).

1 (q) "Municipality" means a city.

2 (r) "Obligation" means a written promise to pay, whether
3 evidenced by a contract, agreement, lease, sublease, bond, or
4 note, or a requirement to pay imposed by law. An obligation does
5 not include a payment required solely because of default upon an
6 obligation, employee salaries, or consideration paid for the use
7 of municipal offices. An obligation does not include those bonds
8 that have been economically defeased by refunding bonds issued
9 under this act. Obligation includes, but is not limited to, the
10 following:

11 (i) A requirement to pay proceeds derived from ad valorem
12 property taxes or taxes levied in lieu of ad valorem property
13 taxes.

14 (ii) A management contract or a contract for professional
15 services.

16 (iii) A payment required on a contract, agreement, bond, or
17 note if the requirement to make or assume the payment arose
18 before August 19, 1993.

19 (iv) A requirement to pay or reimburse a person for the cost
20 of insurance for, or to maintain, property subject to a lease,
21 land contract, purchase agreement, or other agreement.

22 (v) A letter of credit, paying agent, transfer agent, bond
23 registrar, or trustee fee associated with a contract, agreement,
24 bond, or note.

25 (s) "On behalf of an authority", in relation to an eligible
26 advance made by a municipality, or an eligible obligation or
27 other protected obligation issued or incurred by a municipality,

1 means in anticipation that an authority would transfer tax
2 increment revenues or reimburse the municipality from tax
3 increment revenues in an amount sufficient to fully make payment
4 required by the eligible advance made by a municipality, or the
5 eligible obligation or other protected obligation issued or
6 incurred by the municipality, if the anticipation of the transfer
7 or receipt of tax increment revenues from the authority is
8 pursuant to or evidenced by 1 or more of the following:

9 (i) A reimbursement agreement between the municipality and
10 an authority it established.

11 (ii) A requirement imposed by law that the authority
12 transfer tax increment revenues to the municipality.

13 (iii) A resolution of the authority agreeing to make
14 payments to the incorporating unit.

15 (iv) Provisions in a tax increment financing plan describing
16 the project for which the obligation was incurred.

17 (t) "Other protected obligation" means:

18 (i) A qualified refunding obligation issued to refund an
19 obligation described in subparagraph (ii) or (iii), an obligation
20 that is not a qualified refunding obligation that is issued to
21 refund an eligible obligation, or a qualified refunding
22 obligation issued to refund an obligation described in this
23 subparagraph.

24 (ii) An obligation issued or incurred by an authority or by
25 a municipality on behalf of an authority after August 19, 1993,
26 but before December 31, 1994, to finance a project described in a
27 tax increment finance plan approved by the municipality in

1 accordance with this act before December 31, 1993, for which a
2 contract for final design is entered into by the municipality or
3 authority before March 1, 1994.

4 (iii) An obligation incurred by an authority or municipality
5 after August 19, 1993, to reimburse a party to a development
6 agreement entered into by a municipality or authority before
7 August 19, 1993, for a project described in a tax increment
8 financing plan approved in accordance with this act before
9 August 19, 1993, and undertaken and installed by that party in
10 accordance with the development agreement.

11 (iv) An obligation issued or incurred by an authority or by
12 a municipality on behalf of an authority to implement a project
13 described in a tax increment finance plan approved by the
14 municipality in accordance with this act before August 19, 1993,
15 that is located on land owned by a public university on the date
16 the tax increment financing plan is approved, and for which a
17 contract for final design is entered into before December 31,
18 1993.

19 (v) An ongoing management or professional services contract
20 with the governing body of a county which was entered into before
21 March 1, 1994 and which was preceded by a series of limited term
22 management or professional services contracts with the governing
23 body of the county, the last of which was entered into before
24 August 19, 1993.

25 (vi) An obligation issued or incurred by a municipality
26 under a contract executed on December 19, 1994 as subsequently
27 amended between the municipality and the authority to implement a

1 project described in a tax increment finance plan approved by the
2 municipality under this act before August 19, 1993 for which a
3 contract for final design was entered into by the municipality
4 before March 1, 1994 provided that final payment by the
5 municipality is made on or before December 31, 2001.

6 (vii) An obligation issued or incurred by an authority or by
7 a municipality on behalf of an authority that meets all of the
8 following qualifications:

9 (A) The obligation is issued or incurred to finance a
10 project described in a tax increment financing plan approved
11 before August 19, 1993 by a municipality in accordance with this
12 act.

13 (B) The obligation qualifies as an other protected
14 obligation under subparagraph (ii) and was issued or incurred by
15 the authority before December 31, 1994 for the purpose of
16 financing the project.

17 (C) A portion of the obligation issued or incurred by the
18 authority before December 31, 1994 for the purpose of financing
19 the project was retired prior to December 31, 1996.

20 (D) The obligation does not exceed the dollar amount of the
21 portion of the obligation retired prior to December 31, 1996.

22 (viii) An obligation issued or incurred by a municipality
23 under a contract with a county road commission executed before
24 October 1, 1993 to implement a project described in a tax
25 increment finance plan approved by the municipality under this
26 act before August 19, 1993. This subsection shall apply to the
27 capture of tax increment revenues for taxes levied in 1994 and

1 subsequent years.

2 (u) "Public facility" means 1 or more of the following:

3 (i) A street, plaza, or pedestrian mall, and any
4 improvements to a street, plaza, boulevard, alley, or pedestrian
5 mall, including street furniture and beautification, park,
6 parking facility, recreation facility, playground, school,
7 library, public institution or administration building, right of
8 way, structure, waterway, bridge, lake, pond, canal, utility line
9 or pipeline, and other similar facilities and necessary easements
10 of these facilities designed and dedicated to use by the public
11 generally or used by a public agency. As used in this
12 subparagraph, public institution or administration building
13 includes, but is not limited to, a police station, fire station,
14 court building, or other public safety facility.

15 (ii) The acquisition and disposal of real and personal
16 property or interests in real and personal property, demolition
17 of structures, site preparation, relocation costs, building
18 rehabilitation, and all associated administrative costs,
19 including, but not limited to, architect's, engineer's, legal,
20 and accounting fees as contained in the resolution establishing
21 the district's development plan.

22 (iii) An improvement to a facility used by the public or a
23 public facility as those terms are defined in section 1 of 1966
24 PA 1, MCL 125.1351, which improvement is made to comply with the
25 barrier free design requirements of the state construction code
26 promulgated under the **Stille-DeRossett-Hale single** state
27 construction code act, ~~of 1972,~~ 1972 PA 230, MCL 125.1501 to

1 125.1531.

2 (v) "Qualified refunding obligation" means an obligation
3 issued or incurred by an authority or by a municipality on behalf
4 of an authority to refund an obligation if the refunding
5 obligation meets both of the following:

6 (i) The net present value of the principal and interest to
7 be paid on the refunding obligation, including the cost of
8 issuance, will be less than the net present value of the
9 principal and interest to be paid on the obligation being
10 refunded, as calculated using a method approved by the department
11 of treasury.

12 (ii) The net present value of the sum of the tax increment
13 revenues described in subdivision (aa)(ii) and the distributions
14 under section 12a to repay the refunding obligation will not be
15 greater than the net present value of the sum of the tax
16 increment revenues described in subdivision (aa)(ii) and the
17 distributions under section 12a to repay the obligation being
18 refunded, as calculated using a method approved by the department
19 of treasury.

20 (w) "Specific local tax" means a tax levied under 1974 PA
21 198, MCL 207.551 to 207.572, the commercial redevelopment act,
22 1978 PA 255, MCL 207.651 to 207.668, the technology park
23 development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA
24 189, MCL 211.181 to 211.182. The initial assessed value or
25 current assessed value of property subject to a specific local
26 tax shall be the quotient of the specific local tax paid divided
27 by the ad valorem millage rate. However, after 1993, the state

1 tax commission shall prescribe the method for calculating the
2 initial assessed value and current assessed value of property for
3 which a specific local tax was paid in lieu of a property tax.

4 (x) "State fiscal year" means the annual period commencing
5 October 1 of each year.

6 (y) "Tax increment district" or "district" means that area
7 to which the tax increment finance plan pertains.

8 (z) "Tax increment financing plan" means that information
9 and those requirements set forth in sections 13 to 15.

10 (aa) "Tax increment revenues" means the amount of ad valorem
11 property taxes and specific local taxes attributable to the
12 application of the levy of all taxing jurisdictions upon the
13 captured assessed value of real and personal property in the
14 development area, subject to the following requirements:

15 (i) Tax increment revenues include ad valorem property taxes
16 and specific local taxes attributable to the application of the
17 levy of all taxing jurisdictions other than the state pursuant to
18 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
19 and local or intermediate school districts upon the captured
20 assessed value of real and personal property in the development
21 area for any purpose authorized by this act.

22 (ii) Tax increment revenues include ad valorem property
23 taxes and specific local taxes attributable to the application of
24 the levy of the state pursuant to the state education tax act,
25 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate
26 school districts upon the captured assessed value of real and
27 personal property in the development area in an amount equal to

1 the amount necessary, without regard to subparagraph (i), to
2 repay eligible advances, eligible obligations, and other
3 protected obligations.

4 (iii) Tax increment revenues do not include any of the
5 following:

6 (A) Ad valorem property taxes attributable either to a
7 portion of the captured assessed value shared with taxing
8 jurisdictions within the jurisdictional area of the authority or
9 to a portion of value of property that may be excluded from
10 captured assessed value or specific local taxes attributable to
11 such ad valorem property taxes.

12 (B) Ad valorem property taxes excluded by the tax increment
13 financing plan of the authority from the determination of the
14 amount of tax increment revenues to be transmitted to the
15 authority or specific local taxes attributable to such ad valorem
16 property taxes.

17 (iv) The amount of tax increment revenues authorized to be
18 included under subparagraph (ii), and required to be transmitted
19 to the authority under section 14(1), from ad valorem property
20 taxes and specific local taxes attributable to the application of
21 the levy of the state education tax act, 1993 PA 331, MCL 211.901
22 to 211.906, a local school district or an intermediate school
23 district upon the captured assessed value of real and personal
24 property in a development area shall be determined separately for
25 the levy by the state, each school district, and each
26 intermediate school district as the product of
27 sub-subparagraphs (A) and (B):

1 (A) The percentage which the total ad valorem taxes and
2 specific local taxes available for distribution by law to the
3 state, local school district, or intermediate school district,
4 respectively, bear to the aggregate amount of ad valorem millage
5 taxes and specific taxes available for distribution by law to the
6 state, each local school district, and each intermediate school
7 district.

8 (B) The maximum amount of ad valorem property taxes and
9 specific local taxes considered tax increment revenues under
10 subparagraph (ii).