

HOUSE BILL No. 6189

September 9, 2004, Introduced by Reps. Wenke, Nofs, Howell and Tobocman 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 manager
19 of a city, the president of a village, or the supervisor of a
20 township.

21 (h) "Development area" means that area to which a development
22 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 **Eligible obligation also includes a management contract or**
12 **contract for professional services entered into by an authority**
13 **or a municipality on behalf of an authority before August 19,**
14 **1993, with automatic annual renewals that is renewed annually**
15 **until June 30, 2023.**

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

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

19 (p) "Initial assessed value" means the assessed value, as
20 equalized, of all the taxable property within the boundaries of
21 the development area at the time the resolution establishing the
22 tax increment financing plan is approved as shown by the most
23 recent assessment roll of the municipality for which equalization
24 has been completed at the time the resolution is adopted.
25 Property exempt from taxation at the time of the determination of
26 the initial assessed value shall be included as zero. For the
27 purpose of determining initial assessed value, property for which

1 a specific local tax is paid in lieu of a property tax shall not
2 be considered property that is exempt from taxation. The initial
3 assessed value of property for which a specific tax was paid in
4 lieu of a property tax shall be determined as provided in
5 subdivision (w).

6 (q) "Municipality" means a city.

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

16 (i) A requirement to pay proceeds derived from ad valorem
17 property taxes or taxes levied in lieu of ad valorem property
18 taxes.

19 (ii) A management contract or a contract for professional
20 services.

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

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

27 (v) A letter of credit, paying agent, transfer agent, bond

1 registrar, or trustee fee associated with a contract, agreement,
2 bond, or note.

3 (s) "On behalf of an authority", in relation to an eligible
4 advance made by a municipality, or an eligible obligation or
5 other protected obligation issued or incurred by a municipality,
6 means in anticipation that an authority would transfer tax
7 increment revenues or reimburse the municipality from tax
8 increment revenues in an amount sufficient to fully make payment
9 required by the eligible advance made by a municipality, or the
10 eligible obligation or other protected obligation issued or
11 incurred by the municipality, if the anticipation of the transfer
12 or receipt of tax increment revenues from the authority is
13 pursuant to or evidenced by 1 or more of the following:

14 (i) A reimbursement agreement between the municipality and an
15 authority it established.

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

18 (iii) A resolution of the authority agreeing to make payments
19 to the incorporating unit.

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

22 (t) "Other protected obligation" means:

23 (i) A qualified refunding obligation issued to refund an
24 obligation described in subparagraph (ii) or (iii), an obligation
25 that is not a qualified refunding obligation that is issued to
26 refund an eligible obligation, or a qualified refunding
27 obligation issued to refund an obligation described in this

1 subparagraph.

2 (ii) An obligation issued or incurred by an authority or by a
3 municipality on behalf of an authority after August 19, 1993, but
4 before December 31, 1994, to finance a project described in a tax
5 increment finance plan approved by the municipality in accordance
6 with this act before December 31, 1993, for which a contract for
7 final design is entered into by the municipality or authority
8 before March 1, 1994.

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

16 (iv) An obligation issued or incurred by an authority or by a
17 municipality on behalf of an authority to implement a project
18 described in a tax increment finance plan approved by the
19 municipality in accordance with this act before August 19, 1993,
20 that is located on land owned by a public university on the date
21 the tax increment financing plan is approved, and for which a
22 contract for final design is entered into before December 31,
23 1993.

24 (v) An ongoing management or professional services contract
25 with the governing body of a county which was entered into before
26 March 1, 1994 and which was preceded by a series of limited term
27 management or professional services contracts with the governing

1 body of the county, the last of which was entered into before
2 August 19, 1993.

3 (vi) An obligation issued or incurred by a municipality under
4 a contract executed on December 19, 1994 as subsequently amended
5 between the municipality and the authority to implement a project
6 described in a tax increment finance plan approved by the
7 municipality under this act before August 19, 1993 for which a
8 contract for final design was entered into by the municipality
9 before March 1, 1994 provided that final payment by the
10 municipality is made on or before December 31, 2001.

11 (vii) An obligation issued or incurred by an authority or by
12 a municipality on behalf of an authority that meets all of the
13 following qualifications:

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

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

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

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

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

27 (i) A street, plaza, or pedestrian mall, and any improvements

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

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

19 (iii) An improvement to a facility used by the public or a
20 public facility as those terms are defined in section 1 of 1966
21 PA 1, MCL 125.1351, which improvement is made to comply with the
22 barrier free design requirements of the state construction code
23 promulgated under the state construction code act of 1972, 1972
24 PA 230, MCL 125.1501 to 125.1531.

25 (v) "Qualified refunding obligation" means an obligation
26 issued or incurred by an authority or by a municipality on behalf
27 of an authority to refund an obligation if the refunding

1 obligation meets both of the following:

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

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

16 (w) "Specific local tax" means a tax levied under 1974 PA
17 198, MCL 207.551 to 207.572, the commercial redevelopment act,
18 1978 PA 255, MCL 207.651 to 207.668, the technology park
19 development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA
20 189, MCL 211.181 to 211.182. The initial assessed value or
21 current assessed value of property subject to a specific local
22 tax shall be the quotient of the specific local tax paid divided
23 by the ad valorem millage rate. However, after 1993, the state
24 tax commission shall prescribe the method for calculating the
25 initial assessed value and current assessed value of property for
26 which a specific local tax was paid in lieu of a property tax.

27 (x) "State fiscal year" means the annual period commencing

1 October 1 of each year.

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

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

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

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

18 (ii) Tax increment revenues include ad valorem property taxes
19 and specific local taxes attributable to the application of the
20 levy of the state pursuant to the state education tax act, 1993
21 PA 331, MCL 211.901 to 211.906, and local or intermediate school
22 districts upon the captured assessed value of real and personal
23 property in the development area in an amount equal to the amount
24 necessary, without regard to subparagraph (i), to repay eligible
25 advances, eligible obligations, and other protected obligations.

26 (iii) Tax increment revenues do not include any of the
27 following:

1 (A) Ad valorem property taxes attributable either to a
2 portion of the captured assessed value shared with taxing
3 jurisdictions within the jurisdictional area of the authority or
4 to a portion of value of property that may be excluded from
5 captured assessed value or specific local taxes attributable to
6 such ad valorem property taxes.

7 (B) Ad valorem property taxes excluded by the tax increment
8 financing plan of the authority from the determination of the
9 amount of tax increment revenues to be transmitted to the
10 authority or specific local taxes attributable to such ad valorem
11 property taxes.

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

23 (A) The percentage which the total ad valorem taxes and
24 specific local taxes available for distribution by law to the
25 state, local school district, or intermediate school district,
26 respectively, bear to the aggregate amount of ad valorem millage
27 taxes and specific taxes available for distribution by law to the

1 state, each local school district, and each intermediate school
2 district.

3 (B) The maximum amount of ad valorem property taxes and
4 specific local taxes considered tax increment revenues under
5 subparagraph (ii).