

Act No. 101  
Public Acts of 1991  
Approved by the Governor  
August 19, 1991  
Filed with the Secretary of State  
August 21, 1991

**STATE OF MICHIGAN  
86TH LEGISLATURE  
REGULAR SESSION OF 1991**

Introduced by Senator Pridnia

# **ENROLLED SENATE BILL No. 172**

AN ACT to amend sections 2, 12, and 19 of Act No. 281 of the Public Acts of 1986, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by the authority; to prescribe powers and duties of certain state officers and agencies; and to authorize and permit the use of tax increment financing," being sections 125.2152, 125.2162, and 125.2169 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 2, 12, and 19 of Act No. 281 of the Public Acts of 1986, being sections 125.2152, 125.2162, and 125.2169 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2. As used in this act:

- (a) "Authority" means a local development finance authority created pursuant to this act.
- (b) "Authority district" means an area or areas within which an authority exercises its powers.
- (c) "Board" means the governing body of an authority.
- (d) "Certified industrial park" means an area of land designated by the department of commerce as meeting all of the following requirements:
  - (i) It contains not less than 40 acres of land.
  - (ii) It is zoned exclusively for use for eligible property.
  - (iii) It has a site plan or plat approved by the city, village, or township in which the land is located.
  - (iv) The developer of the land agrees to comply with other requirements, not inconsistent with subparagraphs (i) to (iii), imposed upon property classified as a certified industrial park by the department of commerce under the certified industrial park program. Compliance with these other requirements is not a prerequisite to meeting the requirement of this subparagraph.
- (e) "Chief executive officer" means the mayor or city manager of a city, the president of a village, or, for other local units of government or school districts, the person charged by law with the supervision of the functions of the local unit of government or school district.

(f) "Development plan" means that information and those requirements for a development set forth in section 15.

(g) "Development program" means the implementation of a development plan.

(h) "Eligible property" means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures, or any part or accessory thereof whether completed or in the process of construction comprising an integrated whole, located within an authority district, of which the primary purpose and use is 1 of the following:

(i) The manufacture of goods or materials or the processing of goods or materials by physical or chemical change.

(ii) Agricultural processing.

(iii) A high technology activity that has as its primary purpose research, product development, engineering, laboratory testing, or development of industrial technology. This subparagraph does not apply after December 31, 1991.

(iv) The production of energy by the processing of goods or materials by physical or chemical change by a small power production facility as defined by the federal energy regulatory commission pursuant to the public utility regulatory policies act of 1978, Public Law 95-617, 92 Stat. 3117, which is fueled primarily by biomass or wood waste. This act does not affect a person's rights or liabilities under law with respect to groundwater contamination described in this subparagraph. This subparagraph applies only if all of the following requirements are met:

(A) Tax increment revenues captured from the eligible property will be used to finance, or will be pledged for debt service on tax increment bonds used to finance, a public facility in or near the authority district designed to reduce, eliminate, or prevent the spread of identified soil and groundwater contamination, pursuant to law.

(B) The board of the authority exercising powers within the authority district where the eligible property is located adopted an initial tax increment financing plan between January 1, 1991 and May 1, 1991.

(C) The municipality that created the authority establishes a special assessment district whereby not less than 50% of the operating expenses of the public facility described in this subparagraph will be paid for by special assessments. Not less than 50% of the amount specially assessed against all parcels in the special assessment district shall be assessed against parcels owned by parties potentially responsible for the identified groundwater contamination pursuant to law.

(i) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(j) "Municipality" means a city, village, or urban township.

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

(i) A street, road, bridge, sewer, sewage treatment facility, facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement, owned or used by a public agency or functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity, provided that any road, street, or bridge shall be continuously open to public access and that other facilities shall be located in public easements or rights-of-way and sized to accommodate reasonably foreseeable development of eligible property in adjoining areas.

(ii) The acquisition and disposal of real and personal property or an interest in that property, demolition of structures, site preparation, relocation costs, building rehabilitation, and all administrative costs related to a public facility, including, but not limited to, architect's, engineer's, legal, and accounting fees as contained in the resolution establishing the district's development plan.

(iii) An improvement to a facility used by the public or a public facility as those terms are defined in section 1 of Act No. 1 of the Public Acts of 1966, being section 125.1351 of the Michigan Compiled Laws, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being sections 125.1501 to 125.1531 of the Michigan Compiled Laws.

(l) "Urban township" means a township that meets all of the following requirements:

(i) Has a population of 20,000 or more, or has a population of 10,000 or more but is located in a county with a population of 400,000 or more.

(ii) Adopted a master zoning plan before February 1, 1987.

(iii) Provides sewer, water, and other public services to all or a part of the township.

Sec. 12. (1) As used in this section and sections 13 and 17:

(a) "Captured assessed value" means the amount in any 1 year by which the current assessed value, as equalized, of the eligible property identified in the tax increment financing plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined pursuant to subdivision (c), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(b) "Initial assessed value" means the assessed value, as equalized, of the eligible property identified in the tax increment financing plan at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in subdivision (c).

(c) "Specific local taxes" means a tax levied under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.571 of the Michigan Compiled Laws, the commercial redevelopment act, Act No. 255 of the Public Acts of 1978, being sections 207.651 to 207.668 of the Michigan Compiled Laws, the enterprise zone act, Act No. 224 of the Public Acts of 1985, being sections 125.2101 to 125.2122 of the Michigan Compiled Laws, Act No. 189 of the Public Acts of 1953, being sections 211.181 to 211.182 of the Michigan Compiled Laws, and the technology park development act, Act No. 385 of the Public Acts of 1984, being sections 207.701 to 207.718 of the Michigan Compiled Laws. The initial assessed value or current assessed value of property subject to a specific local tax is the quotient of the specific local tax paid divided by the ad valorem millage rate.

(2) If the board determines that it is necessary for the achievement of the purposes of this act, the board shall prepare and submit a tax increment financing plan to the governing body. The plan shall be in compliance with section 13 and shall include a development plan as provided in section 15. The plan shall also contain the following:

(a) A statement of the reasons that the plan will result in the development of captured assessed value which could not otherwise be expected. The reasons may include, but are not limited to, activities of the municipality, authority, or others undertaken before formulation or adoption of the plan in reasonable anticipation that the objectives of the plan would be achieved by some means.

(b) An estimate of the captured assessed value for each year of the plan. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used shall be clearly stated in the plan. The board or the municipality creating the authority may exclude from captured assessed value a percentage of captured assessed value as specified in the plan or growth in property value resulting solely from inflation. If excluded, the plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(c) The estimated tax increment revenues for each year of the plan.

(d) A detailed explanation of the tax increment procedure.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The amount of operating and planning expenditures of the authority and municipality, the amount of advances extended by or indebtedness incurred by the municipality, and the amount of advances by others to be repaid from tax increment revenues.

(g) The costs of the plan anticipated to be paid from tax increment revenues as received.

(h) The duration of the development plan and the tax increment plan.

(i) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is located.

(j) A legal description of the eligible property to which the tax increment financing plan applies.

(k) An estimate of the number of jobs to be created as a result of implementation of the tax increment financing plan.

(3) A tax increment financing plan shall only provide for the use of tax increment revenues for public facilities for eligible property whose captured assessed value produces the tax increment revenues or, to the extent the eligible property is located within a certified industrial park, for other eligible property located in the certified industrial park. Public facilities for eligible property include the development or improvement of access to and around, or within the eligible property, of road facilities reasonably required by traffic flow to be generated by the eligible property, and the development or improvement of public facilities that are necessary to service the eligible property, whether or not located on that eligible property. If the eligible property identified in the tax increment financing plan is property to which section 2(h)(iv) applies, the tax increment financing plan shall not provide for the use of tax increment revenues for public facilities other than those

described in the development plan as of April 1, 1991. Whether or not so provided in the tax increment financing plan, if the eligible property identified in the tax increment financing plan is property to which section 2(h)(iv) applies, then to the extent that captured tax increment revenues are utilized for the costs of cleanup of identified soil and groundwater contamination, the captured tax increment revenues shall be first credited against the shares of responsibility for the total costs of cleanup of uncollectible parties who are responsible for the identified soil and groundwater contamination pursuant to law, and then shall be credited on a pro rata basis against the shares of responsibility for the total costs of cleanup of other parties who are responsible for the identified soil and groundwater contamination pursuant to law.

(4) The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan shall not be greater than the plan's percentage capture and use of taxes levied by a municipality or county for operating purposes. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the property tax limitation act, Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217a of the Michigan Compiled Laws.

(5) If the construction of eligible property has, or may reasonably be expected to have, the effect of transferring employment of 50 or more full-time jobs from 1 or more local governmental units of this state to the municipality in which the eligible property is located, that eligible property shall be considered excluded from the authority district or districts unless the legislative body of each local governmental unit from which 50 or more full-time jobs are to be transferred consents, by resolution, to the inclusion of that eligible property in the authority district for purposes of the tax increment financing plan.

(6) Approval of the tax increment financing plan shall be in accordance with the notice, hearing, disclosure, and approval provisions of sections 16 and 17. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(7) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions in which the eligible property is located to express their views and recommendations regarding the tax increment financing plan. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed tax increment financing plan. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the authority district is located to share a portion of the captured assessed value of the district. Upon adoption of the plan, the collection and transmission of the amount of tax increment, as specified in this act, shall be binding on all taxing units levying ad valorem property taxes or specific local taxes against property located in the authority district.

Sec. 19. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body.

(2) The governing body may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

(3) The auditor general or a certified public accountant appointed by the auditor general shall annually audit the authority whose authority district includes eligible property to which section 2(h)(iv) applies. The audit shall be limited to matters pertaining to that district. Upon completion of the audit, the auditor general shall submit a report on the audit to the committees of the senate and the house of representatives primarily responsible for taxation and environmental protection issues. The department of natural resource shall biannually report to these committees and to the auditor general the status of the remediation of the soil and groundwater contamination described in section 2(h)(iv).

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved.....

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Governor.