

Act No. 333  
Public Acts of 1993  
Approved by the Governor  
December 31, 1993  
Filed with the Secretary of State  
December 31, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Reps. Llewellyn, Munsell, Bullard, Bandstra, Shugars, Varga, Bobier and Dolan

# **ENROLLED HOUSE BILL No. 5118**

AN ACT to amend the title and sections 2, 4, 7, 10, 12, 13, 14, 17, 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 an authority; to prescribe powers and duties of certain state officers and agencies; and to authorize and permit the use of tax increment financing," section 2 as amended by Act No. 287 of the Public Acts of 1992 and sections 12 and 19 as amended by Act No. 101 of the Public Acts of 1991, being sections 125.2152, 125.2154, 125.2157, 125.2160, 125.2162, 125.2163, 125.2164, 125.2167, and 125.2169 of the Michigan Compiled Laws; and to add section 11a.

*The People of the State of Michigan enact:*

Section 1. The title and sections 2, 4, 7, 10, 12, 13, 14, 17, and 19 of Act No. 281 of the Public Acts of 1986, section 2 as amended by Act No. 287 of the Public Acts of 1992 and sections 12 and 19 as amended by Act No. 101 of the Public Acts of 1991, being sections 125.2152, 125.2154, 125.2157, 125.2160, 125.2162, 125.2163, 125.2164, 125.2167, and 125.2169 of the Michigan Compiled Laws, are amended and section 11a is added to read as follows:

## **TITLE**

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 an authority; to prescribe powers and duties of certain state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing.

Sec. 2. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Authority" means a local development finance authority created pursuant to this act.

(c) "Authority district" means an area or areas within which an authority exercises its powers.

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

(e) "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 (u), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(f) "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.

(g) "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.

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

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

(j) "Eligible advance" means an advance made before August 19, 1993.

(k) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993.

(l) "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 applies only to eligible property for which a tax increment financing plan or development plan is adopted and bonds are issued under this act before January 1, 1993.

(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 facility 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.

(m) "Fiscal year" means the fiscal year of the authority.

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

(o) "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 (u).

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

(q) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. Obligation includes, but is not limited to, the following:

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

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

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

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

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

(r) "On behalf of an authority", in relation to an eligible advance made or an eligible obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

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

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

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

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

(s) "Other protected obligation" means:

(i) An obligation issued to refund a bond or note that is an eligible obligation.

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

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

(t) "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.

(u) "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. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

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

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

(i) Unless the sales tax is levied at the rate of 6% under the general sales tax act, Act No. 167 of the Public Acts of 1933, being sections 205.51 to 205.78 of the Michigan Compiled Laws, tax increment revenues include ad valorem property taxes levied under the state education tax act or by local or intermediate school districts for operating purposes and specific local taxes attributable to ad valorem property taxes levied under the state education tax act or by local or intermediate school districts for operating purposes, to the extent necessary to repay eligible advances and eligible obligations but not exceeding the amount certified under section 11a(10) and to the extent necessary to repay other protected obligations.

(ii) Tax increment revenues do not include any of the following:

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

(B) Ad valorem property taxes and specific local taxes attributable to ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority.

(C) Ad valorem property taxes exempted from capture under section 4(3) or specific local taxes attributable to such ad valorem property taxes.

(D) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific local taxes attributable to such ad valorem property taxes.

(x) "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. 4. (1) The governing body of a municipality may declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body proposing to create the authority shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district or districts. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in a proposed authority district and, for a public hearing to be held after February 15, 1994, to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district or districts. At that hearing, a resident, taxpayer, or property owner from a taxing jurisdiction in which the proposed district is located or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of that proposed authority district. The governing body of the municipality in which a proposed district is to be located shall not incorporate land into an authority district not included in the description contained in the notice of public hearing, but it may eliminate lands described in the notice of public hearing from an authority district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction with millage that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Not less than 60 days after the public hearing, if the governing body creating the authority intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority and designating the boundaries of the authority district or districts within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval of resolutions by the chief executive officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body may alter or amend the boundaries of an authority district to include or exclude lands from that authority district or create new authority districts pursuant to the same requirements prescribed for adopting the resolution creating the authority.

(6) The validity of the proceedings establishing an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following takes place:

- (a) Publication of the resolution creating the authority as adopted.
- (b) Filing of the resolution creating the authority with the secretary of state.

#### Sec. 7. The board may:

(a) Study and analyze unemployment, underemployment, and joblessness and the impact of growth upon the authority district or districts.

(b) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility.

(c) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, to promote the growth of the authority district or districts, and take the steps that are necessary to implement the plans to the fullest extent possible to create jobs, and promote economic growth.

(d) Implement any plan of development necessary to achieve the purposes of this act in accordance with the powers of the authority as granted by this act.

(e) Make and enter into contracts necessary or incidental to the exercise of the board's powers and the performance of its duties.

(f) Acquire by purchase or otherwise on terms and conditions and in a manner the authority considers proper, own or lease as lessor or lessee, convey, demolish, relocate, rehabilitate, or otherwise dispose of real or personal property, or rights or interests in that property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to the property.

(g) Improve land, prepare sites for buildings, including the demolition of existing structures, and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, or operate a building, and any necessary or desirable appurtenances to a building, as provided in section 12(2) for the use, in whole or in part, of a public or private person or corporation, or a combination thereof.

(h) Fix, charge, and collect fees, rents, and charges for the use of a building or property or a part of a building or property under the board's control, or a facility in the building or on the property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

- (i) Lease a building or property or part of a building or property under the board's control.
- (j) Accept grants and donations of property, labor, or other things of value from a public or private source.
- (k) Acquire and construct public facilities.

(l) Incur costs in connection with the performance of the board's authorized functions including, but not limited to, administrative costs, and architects, engineers, legal, and accounting fees.

(m) Plan, propose, and implement an improvement to a public facility on eligible property 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.

#### Sec. 10. The activities of the authority shall be financed from 1 or more of the following sources:

- (a) Contributions to the authority for the performance of its functions.
- (b) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

- (c) Tax increment revenues received pursuant to a tax increment financing plan established under sections 12 to 14.
- (d) Proceeds of tax increment bonds issued pursuant to section 14.
- (e) Proceeds of revenue bonds issued pursuant to section 11.
- (f) Money obtained from any other legal source approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.
- (g) Money obtained pursuant to section 11a.

Sec. 11a. (1) Unless the sales tax is levied at the rate of 6% under the general sales tax act, Act No. 167 of the Public Acts of 1933, being sections 205.51 to 205.78 of the Michigan Compiled Laws, if the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the state education tax act, will cause the tax increment revenues received in a fiscal year by an authority under section 13 to be insufficient to repay an eligible advance or to pay an eligible obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).

(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to receive a distribution under this section for that fiscal year shall file a claim for distribution with the department of treasury. The claim for distribution shall include the following information:

(a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.

(b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act.

(e) A list of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

(f) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

(g) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim for distribution with all information required by subsection (2) at any time after the effective date of this section.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, if property taxes were levied by local school districts for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education tax act, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).

(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.

(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district operating taxes or attributable to taxes levied under the state education tax act.

Sec. 12. (1) 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 that 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.

(2) 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(l)(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(l)(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.

(3) 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.

(4) 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.

(5) 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.

(6) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture 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 revenues, 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. 13. (1) The city, village, township, school district, and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only in accordance with the tax increment financing plan. Tax increment revenues in excess of the estimated tax increment revenues or of the actual costs of the plan to be paid by the tax increment revenues may be retained by the authority only for purposes, that by resolution of the board, are determined to further the development program in accordance with the tax increment financing plan. The excess tax increment revenues not so used shall revert proportionately to the respective taxing jurisdictions. These revenues shall not be used to circumvent existing property tax laws or a local charter that provides a maximum authorized rate for the levy of property taxes. The governing body may abolish the tax increment financing plan if it finds that the purposes for which the plan was established are accomplished. However, the tax increment financing plan may not be abolished until the principal of and interest on bonds issued pursuant to section 14 have been paid or funds sufficient to make that payment have been segregated and placed in an irrevocable trust for the benefit of the holders of the bonds.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the tax increment financing plan. The report shall include the following:

- (a) The amount and source of tax increment revenues received.
- (b) The amount in any bond reserve account.
- (c) The amount and purpose of expenditures of tax increment revenues.
- (d) The amount of principal and interest on any outstanding bonded indebtedness of the authority.
- (e) The initial assessed value of the eligible property.
- (f) The captured assessed value of the eligible property retained by the authority.
- (g) The number of jobs created as a result of the implementation of the tax increment financing plan.
- (h) Any additional information the governing body or the state tax commission considers necessary.

Sec. 14. (1) By resolution of its board and subject to the limitations set forth in this section, the authority may authorize, issue, and sell its tax increment bonds to finance a development program. The bonds shall mature in 30 years or less and are subject to the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws. The authority may pledge for debt service requirements the tax increment revenues to be received from an eligible property. The bonds issued under this section shall be considered a single series for the purposes of section 4 of chapter V of the municipal finance act, Act No. 202 of the Public Acts of 1943, being section 135.4 of the Michigan Compiled Laws.

(2) The municipality by majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds or, if authorized by the voters of the municipality, pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 10.

(3) Bonds and notes issued by the authority and the interest on and income from those bonds and notes are exempt from taxation by the state or a political subdivision of this state.

Sec. 17. (1) After a public hearing on the development plan or the tax increment financing plan, or both, with notice of the hearing given pursuant to section 16, the governing body shall determine whether the development plan or tax increment financing plan, or both, constitutes a public purpose. If the governing body determines that the development plan or tax increment financing plan, or both, constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following considerations:

(a) Whether the development plan meets the requirements set forth in section 15(2) and the tax increment financing plan meets the requirements set forth in section 12(1), (2), and (3).

(b) Whether the proposed method of financing the public facility or facilities is feasible and the authority has the ability to arrange the financing.

(c) Whether the development is reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured assessed value estimated to result from adoption of the plan is reasonable.

(e) Whether the land to be acquired under the development plan is reasonably necessary to carry out the purposes of the plan and the purposes of this act.

(f) Whether the development plan is in reasonable accord with the approved master plan of the municipality, if an approved master plan exists.

(g) Whether public services, such as fire and police protection and utilities, are or will be adequate to service the property.

(h) Whether changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Except as provided in this subsection, amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection following the same notice and public hearing provisions that are necessary for approval or rejection of the original plan. Notice and hearing shall not be necessary for revisions in the estimates of captured assessed value and tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured assessed value shall be conclusive unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the resolution adopting the plan is not open to contest.

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(l)(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(l)(iv).

Section 2. This amendatory act shall not take effect unless Senate Joint Resolution S is submitted to the voters and the following bills are enacted into law:

(a) House Bill No. 5109.

(b) House Bill No. 5110.

(c) House Bill No. 5116.

- (d) House Bill No. 5009.
- (e) House Bill No. 5010.
- (f) House Bill No. 5097.
- (g) House Bill No. 5123.
- (h) House Bill No. 4279.
- (i) House Bill No. 5102.
- (j) House Bill No. 5103.
- (k) House Bill No. 5104.
- (l) House Bill No. 5106.
- (m) House Bill No. 5111.
- (n) House Bill No. 5115.
- (o) House Bill No. 5112.
- (p) House Bill No. 5120.
- (q) House Bill No. 5129.
- (r) House Bill No. 5224.

This act is ordered to take immediate effect.

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Co-Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.