



# HOUSE BILL No. 5070

September 29, 1993, Introduced by Reps. LeTarte, Middaugh, Shugars, Dalman, Goschka, Weeks, Griffin, Mathieu, Brackenridge, Walberg, Randall, Crissman, McBryde and Stille and referred to the Committee on Taxation.

A bill to prevent the impairment of certain existing contracts including but not limited to notes and bonds; to make an appropriation and to provide for future appropriations; to prescribe the powers and duties of certain state officers and agencies; and to protect the credit of certain authorities and their incorporating units.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1     Sec. 1. As used in this act:

2     (a) "Authority" means 1 of the following:

3     (i) A downtown development authority created pursuant to Act  
4 No. 197 of the Public Acts of 1975, being sections 125.1651 to  
5 125.1681 of the Michigan Compiled Laws.

6     (ii) A tax increment finance authority created pursuant to  
7 the tax increment finance authority act, Act No. 450 of the

1 Public Acts of 1980, being sections 125.1801 to 125.1830 of the  
2 Michigan Compiled Laws.

3 (iii) A local development finance authority created pursuant  
4 to the local development financing act, Act No. 281 of the Public  
5 Acts of 1986, being sections 125.2151 to 125.2174 of the Michigan  
6 Compiled Laws.

7 (b) "Captured assessed value" means that term as defined by  
8 the act pursuant to which the authority was created.

9 (c) "Eligible obligation" means an obligation issued or  
10 incurred by an authority or by an incorporating unit on behalf of  
11 an authority before December 1, 1993.

12 (d) "Fiscal year" means the fiscal year of the authority.

13 (e) "Incorporating unit" means the city, village, or town-  
14 ship that established the authority pursuant to law.

15 (f) "Obligation" means a promise to pay a third party,  
16 whether evidenced by a contract, agreement, bond, or note, or any  
17 requirement to pay a third party imposed by law. Obligation does  
18 not include a payment required solely because of the default upon  
19 an obligation. Obligation includes but is not limited to the  
20 following:

21 (i) An obligation binding either the authority or the incor-  
22 porating unit pursuant to an interlocal agreement entered into  
23 between the incorporating unit and the authority pursuant to the  
24 urban cooperation act of 1967, Act No. 7 of the Public Acts of  
25 the Extra Session of 1967, being sections 124.501 to 124.512 of  
26 the Michigan Compiled Laws.

1       (ii) A requirement to pay proceeds derived from ad valorem  
2 property taxes or taxes levied in lieu of ad valorem property  
3 taxes.

4       (iii) A management contract or a contract for professional  
5 services.

6       (iv) A payment required on a contract, agreement, bond, or  
7 note that an authority is required to make or to assume, if the  
8 contract, agreement, bond, or note was executed before December  
9 1, 1993 or if the requirement to assume the contract, agreement,  
10 bond, or note arises before December 1, 1993.

11       (v) A requirement to pay or reimburse a third party for the  
12 cost of any insurance for, or to maintain, property subject to a  
13 lease, land contract purchase agreement, or other agreement.

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

17       (g) "On behalf of an authority" means, in relation to an  
18 eligible advance made or an eligible obligation issued or  
19 incurred by an incorporating unit, action taken by the incor-  
20 porating unit in anticipation that an authority would transfer  
21 tax increment revenues or reimburse the incorporating unit from  
22 tax increment revenues in an amount sufficient to fully make pay-  
23 ment required by the eligible obligation issued or incurred by  
24 the incorporating unit, if the anticipation of the transfer or  
25 receipt of tax increment revenues from the authority is pursuant  
26 to or evidenced by 1 or more of the following:

1 (i) An interlocal agreement between the incorporating unit  
2 and an authority it established pursuant to the urban cooperation  
3 act of 1967, Act No. 7 of the Public Acts of the Extra Session of  
4 1967.

5 (ii) A reimbursement agreement between the incorporating  
6 unit and an authority.

7 (iii) A requirement imposed by law that the authority trans-  
8 fer tax increment revenues to the incorporating unit.

9 (iv) A resolution of the authority agreeing to make payments  
10 to the incorporating unit.

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

13 (h) "Specific local taxes" means that term as defined by the  
14 act pursuant to which the authority was created.

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

17 (j) "Tax increment revenues" means the amount of ad valorem  
18 property taxes and specific local taxes attributable to the  
19 application of the levy of a taxing jurisdiction upon the cap-  
20 tured assessed value of the property from which ad valorem prop-  
21 erty taxes and specific local taxes may be captured by an  
22 authority.

23 (k) "School operating purposes" means the operation of any  
24 school district including intermediate school districts.

25 Sec. 2. (1) Not less than 30 days before the first day of a  
26 fiscal year, each authority eligible to receive a distribution  
27 under this act for that fiscal year shall file a claim for

1 distribution with the department. The claim for distribution  
2 shall include the following information:

3 (a) The property tax rates levied on property not exempt  
4 from taxation in 1993 for school operating purposes within the  
5 jurisdictional area of the authority.

6 (b) The property tax rates levied or to be levied on prop-  
7 erty not exempt from taxation for the next fiscal year for school  
8 operating purposes within the jurisdictional area of the  
9 authority.

10 (c) The tax increment revenues estimated to be received by  
11 the authority for the fiscal year based upon actual or antici-  
12 pated property tax millage levies of all taxing jurisdictions  
13 within the jurisdictional area of the authority.

14 (d) The tax increment revenues estimated to be received by  
15 the authority for that fiscal year from actual or anticipated  
16 property tax millage levies for school operating purposes.

17 (e) The tax increment revenues the authority estimates it  
18 would have received for that fiscal year if the school operating  
19 property tax millage was levied at the rate imposed in 1993 for  
20 school operating purposes.

21 (f) A list of eligible obligations or eligible advances and  
22 the payments due on those eligible obligations or advances in the  
23 next fiscal year.

24 (g) The amount of any other funds, other than tax increment  
25 revenues, estimated to be received in the next fiscal year by the  
26 authority that are primarily pledged to the payment of an  
27 eligible obligation or an eligible advance. Other funds received

1 by the authority for any fiscal year shall not include any excess  
2 tax increment revenues of the authority that are permitted by law  
3 to be retained by the authority for purposes that further the  
4 development program pursuant to the tax increment financing plan  
5 of the authority.

6 (h) The amount of any distribution received pursuant to this  
7 act for any fiscal year in excess of or less than the distribu-  
8 tion that would have been required if calculated upon actual tax  
9 increment revenues received for that fiscal year.

10 (i) The amount of any distribution received pursuant to this  
11 act for any fiscal year in excess of or less than the distribu-  
12 tion that would have been required if calculated upon actual tax  
13 increment revenues received for that fiscal year.

14 (2) For a fiscal year that commences in 1994, an authority  
15 may make a claim for distribution with all information required  
16 by subsection (1) at any time after the effective date of this  
17 act.

18 Sec. 3. (1) There is appropriated for the 1993-94 state  
19 fiscal year and each state fiscal year after 1993-94 the amount  
20 determined pursuant to this section. Amounts appropriated pursu-  
21 ant to this section shall be distributed to an authority within  
22 30 days after receipt of a claim for distribution from an  
23 authority. An authority shall allocate and pay any distribution  
24 it receives for an eligible obligation issued on behalf of an  
25 incorporating unit to the incorporating unit.

26 (2) Subject to subsection (3), the aggregate amount to be  
27 appropriated and distributed pursuant to this section to an

1 authority shall be the sum of the amounts determined pursuant to  
2 subdivisions (a) and (b) minus the amount determined pursuant to  
3 subdivision (c), which subdivisions provide as follows:

4 (a) The difference between the tax increment revenues the  
5 authority would have received for the fiscal year if the school  
6 operating tax millage was levied at the rate imposed in 1993 for  
7 school operating purposes as required to be reported pursuant to  
8 section 2(1)(e), and the tax increment revenues estimated to be  
9 received by the authority for the fiscal year based upon actual  
10 or anticipated property tax millage levies for school operating  
11 purposes, as required to be reported pursuant to section  
12 2(1)(d).

13 (b) Any shortfall required to be reported pursuant to sec-  
14 tion 2(1)(h) that had not previously increased a distribution.

15 (c) Any excess amount required to be reported pursuant to  
16 section 2(1)(h) that had not previously decreased a  
17 distribution.

18 (3) The amount distributed under subsection (2) shall not  
19 exceed the difference between the amount described in section  
20 2(1)(f) and the sum of the amounts described in section 2(1)(c)  
21 and (g).

22 Sec. 4. (1) A distribution under this act replacing tax  
23 increment revenues pledged by an authority or an incorporating  
24 unit is subject to the lien of the pledge, whether or not there  
25 has been physical delivery.

26 (2) Obligations for which distributions are made pursuant to  
27 this act are not a debt or liability of the state and, except for

1 the appropriation required by this act and section 6 of article  
2 IX of the state constitution of 1963, shall not create or consti-  
3 tute any indebtedness, liability, or obligation of the state or  
4 be or constitute a pledge of the faith and credit of the state.

5       Sec. 5. In the event of the insufficiency of any year's  
6 appropriations to meet the payments required under this act to an  
7 authority, the payments shall be made to the authorities in the  
8 following order of priority:

9       (a) Amounts equal to the total payments due within the  
10 authority's fiscal year on any bond or note issue of the  
11 authority.

12       (b) Amounts equal to the total payments due within the  
13 incorporating unit's fiscal year on any bond or note issue of the  
14 incorporating unit if the authority and the incorporating unit  
15 had, before December 1, 1993, entered into a contract or an  
16 interlocal agreement pursuant to the urban cooperation act of  
17 1967, Act No. 7 of the Public Acts of the Extra Session of 1967,  
18 being sections 124.501 to 124.512 of the Michigan Compiled Laws,  
19 obligating the authority to make those payments to the incor-  
20 porating unit.

21       (c) All other eligible obligations.