



HOUSE BILL No. 5118

October 12, 1993, Introduced by Reps. Llewellyn, Munsell, Bullard, Bandstra, Shugars, Varga, Bobier and Dolan and referred to the Committee on Local Government.

A bill to amend sections 1, 12, 13, 19, and 21 of Act No. 281 of the Public Acts of 1986, entitled "The local development financing act," sections 12 and 19 as amended by Act No. 101 of the Public Acts of 1991, being sections 125.2151, 125.2162, 125.2163, 125.2169, and 125.2171 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 12, 13, 19, and 21 of Act No. 281 of
2 the Public Acts of 1986, sections 12 and 19 as amended by Act
3 No. 101 of the Public Acts of 1991, being sections 125.2151,
4 125.2162, 125.2163, 125.2169, and 125.2171 of the Michigan
5 Compiled Laws, are amended to read as follows:

6 Sec. 1. (1) The legislature finds all of the following:

1 (a) That there exists in this state conditions of
2 unemployment, underemployment, and joblessness detrimental to the
3 state economy and the economic growth of the state economy.

4 (b) That government programs are desirable and necessary to
5 eliminate the causes of unemployment, underemployment, and job-
6 lessness therefore benefiting the economic growth of the state.

7 (c) That it is appropriate to finance these government pro-
8 grams by means available to the state and local units of govern-
9 ment, including tax increment financing.

10 (d) That tax increment financing is a government financing
11 program ~~which~~ THAT contributes to economic growth and develop-
12 ment by dedicating a portion of the tax base resulting from the
13 economic growth and development to certain public facilities and
14 structures or improvements of the type designed and dedicated to
15 public use and thereby facilitate certain projects ~~which~~ THAT
16 create economic growth and development.

17 (e) That it is necessary for the legislature to exercise the
18 sovereign power to legislate tax increment financing as autho-
19 rized in this act and in the exercise of this sovereign power to
20 mandate the transfer of tax increment revenues by city, village,
21 township, ~~school district,~~ and county treasurers to authorities
22 created under this act in order to effectuate the legislated gov-
23 ernment programs to eliminate the conditions of unemployment,
24 underemployment, and joblessness and to promote state economic
25 growth.

1 (f) That the creation of jobs and the promotion of economic
2 growth in the state are essential governmental functions and
3 constitute essential public purposes.

4 (g) That the creation of jobs and the promotion of economic
5 growth stabilize and strengthen the tax bases upon which local
6 units of government rely and that government programs to elimi-
7 nate causes of unemployment, underemployment, and joblessness
8 benefit local units of government and are for the use of those
9 local units of government.

10 (h) That the provisions of this act are enacted to provide a
11 means for local units of government to eliminate the conditions
12 of unemployment, underemployment, and joblessness and to promote
13 economic growth in the communities served by these local units of
14 government.

15 (2) This act shall be known and may be cited as "the local
16 development financing act".

17 Sec. 12. (1) As used in this section and sections 13 and
18 17:

19 (a) "Captured assessed value" means the amount in any 1 year
20 by which the current assessed value, as equalized, of the eligi-
21 ble property identified in the tax increment financing plan,
22 including the current assessed value of property for which spe-
23 cific local taxes are paid in lieu of property taxes as deter-
24 mined pursuant to subdivision (c), exceeds the initial assessed
25 value. The ~~state tax commission~~ DEPARTMENT OF TREASURY shall
26 prescribe the method for calculating captured assessed value.

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

13 (c) "Specific local taxes" means a tax levied under Act
14 No. 198 of the Public Acts of 1974, being sections 207.551 to
15 207.571 of the Michigan Compiled Laws, the commercial redevelop-
16 ment act, Act No. 255 of the Public Acts of 1978, being sections
17 207.651 to 207.668 of the Michigan Compiled Laws, the enterprise
18 zone act, Act No. 224 of the Public Acts of 1985, being sections
19 125.2101 to 125.2122 of the Michigan Compiled Laws, Act No. 189
20 of the Public Acts of 1953, being sections 211.181 to 211.182 of
21 the Michigan Compiled Laws, and the technology park development
22 act, Act No. 385 of the Public Acts of 1984, being sections
23 207.701 to 207.718 of the Michigan Compiled Laws. The initial
24 assessed value or current assessed value of property subject to a
25 specific local tax is the quotient of the specific local tax paid
26 divided by the ad valorem millage rate.

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

7 (a) A statement of the reasons that the plan will result in
8 the development of captured assessed value ~~which~~ THAT could not
9 otherwise be expected. The reasons may include, but are not
10 limited to, activities of the municipality, authority, or others
11 undertaken before formulation or adoption of the plan in reason-
12 able anticipation that the objectives of the plan would be
13 achieved by some means.

14 (b) An estimate of the captured assessed value for each year
15 of the plan. The plan may provide for the use of part or all of
16 the captured assessed value, but the portion intended to be used
17 shall be clearly stated in the plan. The board or the municipal-
18 ity creating the authority may exclude from captured assessed
19 value a percentage of captured assessed value as specified in the
20 plan or growth in property value resulting solely from
21 inflation. If excluded, the plan shall set forth the method for
22 excluding growth in property value resulting solely from
23 inflation.

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

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

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

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

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

9 (h) The duration of the development plan and the tax incre-
10 ment plan.

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

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

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

18 (3) A tax increment financing plan shall only provide for
19 the use of tax increment revenues for public facilities for eli-
20 gible property whose captured assessed value produces the tax
21 increment revenues or, to the extent the eligible property is
22 located within a certified industrial park, for other eligible
23 property located in the certified industrial park. Public facil-
24 ities for eligible property include the development or improve-
25 ment of access to and around, or within the eligible property, of
26 road facilities reasonably required by traffic flow to be
27 generated by the eligible property, and the development or

1 improvement of public facilities that are necessary to service
2 the eligible property, whether or not located on that eligible
3 property. If the eligible property identified in the tax incre-
4 ment financing plan is property to which section 2(h)(iv)
5 applies, the tax increment financing plan shall not provide for
6 the use of tax increment revenues for public facilities other
7 than those described in the development plan as of April 1,
8 1991. Whether or not so provided in the tax increment financing
9 plan, if the eligible property identified in the tax increment
10 financing plan is property to which section 2(h)(iv) applies,
11 then to the extent that captured tax increment revenues are uti-
12 lized for the costs of cleanup of identified soil and groundwater
13 contamination, the captured tax increment revenues shall be first
14 credited against the shares of responsibility for the total costs
15 of cleanup of uncollectible parties who are responsible for the
16 identified soil and groundwater contamination pursuant to law,
17 and then shall be credited on a pro rata basis against the shares
18 of responsibility for the total costs of cleanup of other parties
19 who are responsible for the identified soil and groundwater con-
20 tamination pursuant to law.

21 ~~(4) The percentage of taxes levied for school operating~~
22 ~~purposes that is captured and used by the tax increment financing~~
23 ~~plan shall not be greater than the plan's percentage capture and~~
24 ~~use of taxes levied by a municipality or county for operating~~
25 ~~purposes. For purposes of the previous sentence, taxes levied by~~
26 ~~a county for operating purposes include only millage allocated~~
27 ~~for county or charter county purposes under the property tax~~

~~1 limitation act, Act No. 62 of the Public Acts of 1933, being~~
~~2 sections 211.201 to 211.217a of the Michigan Compiled Laws.~~

3 (4) ~~(5)~~ If the construction of eligible property has, or
4 may reasonably be expected to have, the effect of transferring
5 employment of 50 or more full-time jobs from 1 or more local gov-
6 ernmental units of this state to the municipality in which the
7 eligible property is located, that eligible property shall be
8 considered excluded from the authority district or districts
9 unless the legislative body of each local governmental unit from
10 which 50 or more full-time jobs are to be transferred consents,
11 by resolution, to the inclusion of that eligible property in the
12 authority district for purposes of the tax increment financing
13 plan.

14 (5) ~~(6)~~ Approval of the tax increment financing plan shall
15 be in accordance with the notice, hearing, disclosure, and
16 approval provisions of sections 16 and 17. If the development
17 plan is part of the tax increment financing plan, only 1 hearing
18 and approval procedure is required for the 2 plans together.

19 (6) ~~(7)~~ Before the public hearing on the tax increment
20 financing plan, the governing body shall provide a reasonable
21 opportunity to the taxing jurisdictions in which the eligible
22 property is located to express their views and recommendations
23 regarding the tax increment financing plan. The authority shall
24 fully inform the taxing jurisdictions about the fiscal and eco-
25 nomic implications of the proposed tax increment financing plan.
26 The taxing jurisdictions may present their recommendations at the
27 public hearing on the tax increment financing plan. The

1 authority may enter into agreements with the taxing jurisdictions
2 and the governing body of the municipality in which the authority
3 district is located to share a portion of the captured assessed
4 value of the district. Upon adoption of the plan, the collection
5 and transmission of the amount of tax increment, as specified in
6 this act, shall be binding on all taxing units levying ad valorem
7 property taxes or specific local taxes against property located
8 in the authority district.

9 Sec. 13. (1) The amount of tax increment that shall be
10 transmitted to the authority by the city, village, township,
11 ~~school district,~~ and county treasurers shall be that portion of
12 the tax levy of all taxing jurisdictions OTHER THAN LOCAL SCHOOL
13 DISTRICTS, INTERMEDIATE SCHOOL DISTRICTS, AND THE EDUCATION
14 FINANCE AUTHORITY paid each year on the captured assessed value
15 of each eligible property included in a tax increment financing
16 plan excluding millage specifically levied for the payment of
17 principal and interest of obligations approved by electors or
18 obligations pledging the unlimited taxing power of the local gov-
19 ernmental-unit. For purposes of this section, that portion of a
20 specific local tax ~~which~~ THAT is attributable to the captured
21 assessed value of an eligible property included in a tax incre-
22 ment financing plan shall be included as a part of the tax incre-
23 ment to be transmitted to the authority and shall be calculated
24 using the ad valorem millage rate excluding MILLAGE LEVIED BY
25 LOCAL SCHOOL DISTRICTS OR INTERMEDIATE SCHOOL DISTRICTS AND mill-
26 age specifically voted and levied for the payment of principal

1 and interest of obligations issued or secured by the taxing
2 body.

3 (2) The authority shall expend the tax increments received
4 for the development program only in accordance with the tax
5 increment financing plan. Tax increment revenues in excess of
6 the estimated tax increment revenues or of the actual costs of
7 the plan to be paid by the tax increment revenues may be retained
8 by the authority only for purposes, that by resolution of the
9 board, are determined to further the development program in
10 accordance with the tax increment financing plan. The excess
11 revenue not so used shall revert proportionately to the respec-
12 tive taxing jurisdictions. These revenues shall not be used to
13 circumvent existing property tax laws or a local charter ~~which~~
14 THAT provides a maximum authorized rate for the levy of property
15 taxes. The governing body may abolish the tax increment financ-
16 ing plan if it finds that the purposes for which the plan was
17 established are accomplished. However, the tax increment financ-
18 ing plan may not be abolished until the principal of and interest
19 on bonds issued pursuant to section 14 have been paid or funds
20 sufficient to make that payment have been segregated and placed
21 in an irrevocable trust for the benefit of the holders of the
22 bonds.

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

(a) The amount and source of tax increments 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 commission considers necessary.

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, BY 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, 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

1 committed for designated purposes, which cost shall be paid
2 annually by the board pursuant to an appropriate item in its
3 budget.

4 (3) The auditor general or a certified public accountant
5 appointed by the auditor general shall annually audit the author-
6 ity whose authority district includes eligible property to which
7 section 2(h)(iv) applies. The audit shall be limited to matters
8 pertaining to that district. Upon completion of the audit, the
9 auditor general shall submit a report on the audit to the commit-
10 tees of the senate and the house of representatives primarily
11 responsible for taxation and environmental protection issues.
12 The department of natural resource shall biannually report to
13 these committees and to the auditor general the status of the
14 remediation of the soil and groundwater contamination described
15 in section 2(h)(iv).

16 Sec. 21. The ~~state tax commission~~ DEPARTMENT OF TREASURY
17 may institute proceedings to compel enforcement of this act.