



SENATE BILL No. 1033

February 24, 1994, Introduced by Senator ARTHURHULTZ
and referred to the Committee on Finance

A bill to amend sections 1 and 12a of Act No 450 of the
Public Acts of 1980, entitled as amended
"The tax increment finance authority act "
section 1 as amended and section 12a as added by Act No 322 of
the Public Acts of 1993, being sections 125 1801 and 125 1812a of
the Michigan Compiled Laws and to add section 12b

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 1 and 12a of Act No 450 of the Public
2 Acts of 1980 section 1 as amended and section 12a as added by
3 Act No 322 of the Public Acts of 1993, being sections 125 1801
4 and 125 1812a of the Michigan Compiled Laws, are amended and sec-
5 tion 12b is added to read as follows

6 Sec 1 As used in this act

7 (a) "Advance" means a transfer of funds made by a
8 municipality to an authority or to another person on behalf of

1 the authority Evidence of the intent to repay an advance is
2 required and may include, but is not limited to an executed
3 agreement to repay, provisions contained in a tax increment
4 financing plan approved prior to the advance or prior to
5 August 14, 1993, or a resolution of the authority or the
6 municipality

7 (b) "Authority" means a tax increment finance authority cre-
8 ated pursuant to this act

9 (c) "Authority district" means that area within which an
10 authority exercises its powers and within which 1 or more devel-
11 opment areas may exist

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

13 (e) "Captured assessed value" means the amount in any 1 year
14 by which the current assessed value of the development area,
15 including the assessed value of property for which specific local
16 taxes are paid in lieu of property taxes as determined in
17 subdivision (u) exceeds the initial assessed value The state
18 tax commission shall prescribe the method for calculating cap-
19 tured assessed value

20 (f) "Chief executive officer" means the mayor or city man-
21 ager of a city, the president of a village, or the supervisor of
22 a township

23 (g) "Development area" means that area to which a develop-
24 ment plan is applicable

25 (h) "Development area citizens council" or "council" means
26 that advisory body established pursuant to section 20

1 (1) "Development plan" means that information and those
2 requirements for a development set forth in section 16

3 (j) "Development program" means the implementation of the
4 development plan

5 (k) "Eligible advance" means an advance made before
6 August 19, 1993

7 (l) "Eligible obligation" means an obligation issued or
8 incurred by an authority or by a municipality on behalf of an
9 authority before August 19, 1993

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

11 (n) "Governing body" means the elected body of a municipal-
12 ity having legislative powers

13 (o) "Initial assessed value" means the assessed value, as
14 equalized, of all the taxable property within the boundaries of
15 the development area at the time the resolution establishing the
16 tax increment financing plan is approved as shown by the most
17 recent assessment roll of the municipality for which equalization
18 has been completed at the time the resolution is adopted

19 Property exempt from taxation at the time of the determination of
20 the initial assessed value shall be included as zero For the
21 purpose of determining initial assessed value, property for which
22 a specific local tax is paid in lieu of a property tax shall not
23 be considered property that is exempt from taxation The initial
24 assessed value of property for which a specific tax was paid in
25 lieu of a property tax shall be determined as provided in
26 subdivision (u)

1 (p) "Municipality" means a city

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

9 (1) A requirement to pay proceeds derived from ad valorem
10 property taxes or taxes levied in lieu of ad valorem property
11 taxes

12 (11) A management contract or a contract for professional
13 services

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

17 (1v) A requirement to pay or reimburse a person for the cost
18 of insurance for or to maintain property subject to a lease,
19 land contract, purchase agreement, or other agreement

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

23 (r) "On behalf of an authority", in relation to an eligible
24 advance made or an eligible obligation issued or incurred by a
25 municipality, means in anticipation that an authority would
26 transfer tax increment revenues or reimburse the municipality
27 from tax increment revenues in an amount sufficient to fully make

1 payment required by the eligible advance made or the eligible
2 obligation issued or incurred by the municipality if the antici-
3 pation of the transfer or receipt of tax increment revenues from
4 the authority is pursuant to or evidenced by 1 or more of the
5 following

6 (1) A reimbursement agreement between the municipality and
7 an authority it established

8 (11) A requirement imposed by law that the authority trans-
9 fer tax increment revenues to the municipality

10 (111) A resolution of the authority agreeing to make pay-
11 ments to the incorporating unit

12 (1v) Provisions in a tax increment financing plan describing
13 the project for which the obligation was incurred

14 (s) "Other protected obligation" means

15 (1) An obligation issued to refund a bond or note that is an
16 eligible obligation

17 (11) An obligation issued or incurred by an authority or by
18 a municipality on behalf of an authority after August 19, 1993,
19 but before December 31 1994 to finance a project described in a
20 tax increment finance plan approved by the municipality in
21 accordance with this act before August 19, 1993, for which a con-
22 tract for final design is entered into by the municipality or
23 authority before March 1, 1994

24 (111) An obligation incurred by an authority or municipality
25 after August 19, 1993, to reimburse a party to a development
26 agreement entered into by a municipality or authority before
27 August 19, 1993, for a project described in a tax increment

1 financing plan approved in accordance with this act before
2 August 19, 1993, and undertaken and installed by that party in
3 accordance with the development agreement

4 (t) "Public facility" means 1 or more of the following

5 (1) A street, plaza, or pedestrian mall, and any improve-
6 ments to a street, plaza, boulevard, alley, or pedestrian mall,
7 including street furniture and beautification, park, parking
8 facility, recreation facility, playground, school, library,
9 public institution or administration building, right of way,
10 structure, waterway, bridge, lake, pond, canal, utility line or
11 pipeline, and other similar facilities and necessary easements of
12 these facilities designed and dedicated to use by the public gen-
13 erally or used by a public agency

14 (11) The acquisition and disposal of real and personal prop-
15 erty or interests in real and personal property, demolition of
16 structures, site preparation, relocation costs, building rehabil-
17 itation and all associated administrative costs including but
18 not limited to, architect's, engineer's, legal and accounting
19 fees as contained in the resolution establishing the district's
20 development plan

21 (111) An improvement to a facility used by the public or a
22 public facility as those terms are defined in section 1 of Act
23 No 1 of the Public Acts of 1966, being section 125 1351 of the
24 Michigan Compiled Laws, which improvement is made to comply with
25 the barrier free design requirements of the state construction
26 code promulgated under the state construction code act of 1972,

1 Act No 230 of the Public Acts of 1972, being sections 125 1501
2 to 125 1531 of the Michigan Compiled Laws

3 (u) "Specific local tax" means a tax levied under Act
4 No 198 of the Public Acts of 1974, being sections 207 551 to
5 207 571 of the Michigan Compiled Laws the commercial redevelop-
6 ment act, Act No 255 of the Public Acts of 1978 being sections
7 207 651 to 207 668 of the Michigan Compiled Laws the technology
8 park development act, Act No 385 of the Public Acts of 1984
9 being sections 207 701 to 207 718 of the Michigan Compiled Laws,
10 and Act No 189 of the Public Acts of 1953, being sections
11 211 181 to 211 182 of the Michigan Compiled Laws The initial
12 assessed value or current assessed value of property subject to a
13 specific local tax shall be the quotient of the specific local
14 tax paid divided by the ad valorem millage rate However, after
15 1993, the state tax commission shall prescribe the method for
16 calculating the initial assessed value and current assessed value
17 of property for which a specific local tax was paid in lieu of a
18 property tax

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

21 (w) "Tax increment district" or "district" means that area
22 to which the tax increment finance plan pertains

23 (x) "Tax increment financing plan" means that information
24 and those requirements set forth in sections 13 to 15

25 (y) "Tax increment revenues" means the amount of ad valorem
26 property taxes and specific local taxes attributable to the
27 application of the levy of all taxing jurisdictions upon the

1 capture assessed value of real and personal property in the
2 development area, subject to the following requirements

3 (1) ~~Unless~~ IF the sales tax is levied at the rate of 6%
4 under the general sales tax act, Act No 167 of the Public Acts
5 of 1933, being sections 205 51 to 205 78 of the Michigan Compiled
6 Laws, AND THE FULL APPROPRIATION REQUIRED UNDER SECTION 12B HAS
7 NOT BEEN MADE OR IF THE SALES TAX IS LEVIED AT THE RATE OF 4%
8 UNDER ACT NO 167 OF THE PUBLIC ACTS OF 1933, tax increment reve-
9 nues include ad valorem property taxes levied under the state
10 education tax act or by local or intermediate school districts
11 and specific local taxes attributable to ad valorem property
12 taxes levied under the state education tax act or by local or
13 intermediate school districts, to the extent necessary to repay
14 eligible advances and eligible obligations but not exceeding the
15 amount certified under section 12a(10) and to the extent neces-
16 sary to repay other protected obligations

17 (11) Tax increment revenues do not include any of the
18 following

19 (A) Ad valorem property taxes attributable either to a por-
20 tion of the captured assessed value shared with taxing jurisdic-
21 tions within the jurisdictional area of the authority or to a
22 portion of value of property that may be excluded from captured
23 assessed value or specific local taxes attributable to such ad
24 valorem property taxes

25 (B) Ad valorem property taxes excluded by the tax increment
26 financing plan of the authority from the determination of the
27 amount of tax increment revenues to be transmitted to the

1 authority or specific local taxes attributable to such ad valorem
2 property taxes

3 Sec 12a (1) ~~Unless~~ IF the sales tax is levied at the
4 rate of 6% under the general sales tax act, Act No 167 of the
5 Public Acts of 1933, being sections 205 51 to 205 78 of the
6 Michigan Compiled Laws, AND THE FULL APPROPRIATION REQUIRED UNDER
7 SECTION 12B HAS NOT BEEN MADE OR IF THE SALES TAX IS LEVIED AT
8 THE RATE OF 4% UNDER ACT NO 167 OF THE PUBLIC ACTS OF 1933,
9 THEN, if the amount of tax increment revenues lost as a result of
10 the reduction of taxes levied by local school districts for
11 school operating purposes required by the millage limitations
12 under section 1211 of the school code of 1976 Act No 451 of the
13 Public Acts of 1976, being section 380 1211 of the Michigan
14 Compiled Laws, reduced by the amount of tax increment revenues
15 received from the capture of taxes levied under or attributable
16 to the state education tax act, will cause the tax increment rev-
17 enues received in a fiscal year by an authority under section 14
18 to be insufficient to repay an eligible advance or to pay an eli-
19 gible obligation the legislature shall appropriate and distrib-
20 ute to the authority the amount described in subsection (5)

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

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

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

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

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

17 (e) A list of eligible obligations and eligible advances and
18 the payments due on each of those eligible obligations or eligi-
19 ble advances in that fiscal year, and the total amount of all the
20 payments due on those eligible obligations and eligible advances
21 in that fiscal year

22 (f) The amount of money, other than tax increment revenues
23 estimated to be received in that fiscal year by the authority
24 that is primarily pledged to, and to be used for the payment of
25 an eligible obligation or the repayment of an eligible advance
26 That amount shall not include excess tax increment revenues of
27 the authority that are permitted by law to be retained by the

1 authority for purposes that further the development program
2 However, that amount shall include money to be obtained from
3 sources authorized by law, which law is enacted on or after
4 December 1, 1993, for use by the municipality or authority to
5 finance a development project

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

10 (3) For the fiscal year that commences after September 30,
11 1993 and before October 1, 1994, an authority may make a claim
12 for distribution with all information required by subsection (2)
13 at any time after the effective date of this section

14 (4) After review and verification of claims submitted pursu-
15 ant to this section, amounts appropriated by the state in compli-
16 ance with this act shall be distributed as 2 equal payments on
17 March 1 and September 1 after receipt of a claim An authority
18 shall allocate a distribution it receives for an eligible obliga-
19 tion issued on behalf of a municipality to the municipality

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

25 (a) The amount by which the tax increment revenues the
26 authority would have received for the fiscal year, if property
27 taxes were levied by local school districts for school operating

1 purposes at the millage rates described in subsection (2)(a) and
2 if no property taxes were levied under the state education tax
3 act, exceed the tax increment revenues the authority actually
4 received for the fiscal year

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

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

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

15 (7) If, based upon the tax increment financing plan in
16 effect on August 19, 1993, the payment due on eligible obliga-
17 tions or eligible advances anticipates the use of excess prior
18 year tax increment revenues permitted by law to be retained by
19 the authority, and if the sum of the amounts described in
20 subsection (2)(c) and (f) plus the amount to be distributed under
21 subsections (5) and (6) is less than the amount described in
22 subsection (2)(e), the amount to be distributed pursuant to this
23 section shall not exceed that portion of the cumulative differ-
24 ence, for each preceding fiscal year between the amount that
25 could have been distributed pursuant to subsection (5) and the
26 amount actually distributed pursuant to subsections (5) and (6)
27 and this subsection

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

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

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

16 SEC 12B IF THE SALES TAX IS LEVIED AT THE RATE OF 6/
17 UNDER THE GENERAL SALES TAX ACT, ACT NO 167 OF THE PUBLIC ACTS
18 OF 1933, BEING SECTIONS 205 51 TO 205 78 OF THE MICHIGAN COMPILED
19 LAWS, THE LEGISLATURE SHALL APPROPRIATE AND DISTRIBUTE TO EACH
20 AUTHORITY AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE
21 FOLLOWING

22 (A) THE TOTAL AMOUNT OF ALL PAYMENTS DUE IN THE FISCAL YEAR
23 OF AN AUTHORITY ON THE FOLLOWING TYPES OF OBLIGATIONS ISSUED BY
24 THE AUTHORITY OR BY A MUNICIPALITY ON BEHALF OF THE AUTHORITY

25 (1) BONDS OR NOTES ISSUED ON OR BEFORE AUGUST 19, 1993

26 (11) BONDS OR NOTES THAT OTHERWISE MEET THE REQUIREMENTS OF
27 BEING AN OTHER PROTECTED OBLIGATION UNDER SECTION 1(S)

- 1 (111) OBLIGATIONS EVIDENCING A LOAN FROM AN AGENCY OF THE
- 2 UNITED STATES GOVERNMENT
- 3 (B) THE AMOUNT DESCRIBED UNDER SECTION 12A(2) (F)