



SENATE BILL No. 1034

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

A bill to amend sections 1 and 13b of Act No 197 of the
Public Acts of 1975, entitled as amended

"An act to provide for the establishment of a downtown development authority to prescribe its powers and duties to correct and prevent deterioration in business districts to encourage historic preservation to authorize the acquisition and disposal of interests in real and personal property to authorize the creation and implementation of development plans in the districts to promote the economic growth of the districts to create a board to prescribe its powers and duties to authorize the levy and collection of taxes to authorize the issuance of bonds and other evidences of indebtedness to authorize the use of tax increment financing and to prescribe the powers and duties of certain state officials,"

section 1 as amended and section 13b as added by Act No 323 of the Public Acts of 1993, being sections 125 1651 and 125 1663b of the Michigan Compiled Laws and to add section 13c

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

- 1 Section 1 Sections 1 and 13b of Act No 197 of the Public
- 2 Acts of 1975, section 1 as amended and section 13b as added by

1 Act No 323 of the Public Acts of 1993, being sections 125 1651
2 and 125 1663b of the Michigan Compiled Laws, are amended and
3 section 13c is added to read as follows

4 Sec 1 As used in this act

5 (a) "Advance" means a transfer of funds made by a municipal-
6 ity to an authority or to another person on behalf of the author-
7 ity in anticipation of repayment by the authority Evidence of
8 the intent to repay an advance may include, but is not limited
9 to, an executed agreement to repay, provisions contained in a tax
10 increment financing plan approved prior to the advance, or a res-
11 olution of the authority or the municipality

12 (b) "Authority" means a downtown development authority cre-
13 ated pursuant to this act

14 (c) "Board" means the governing body of an authority

15 (d) "Business district" means an area in the downtown of a
16 municipality zoned and used principally for business

17 (e) "Captured assessed value" means the amount in any 1 year
18 by which the current assessed value of the project area includ-
19 ing the assessed value of property for which specific local taxes
20 are paid in lieu of property taxes as determined in subdivision
21 (v), exceeds the initial assessed value The state tax commis-
22 sion shall prescribe the method for calculating captured assessed
23 value

24 (f) "Chief executive officer" means the mayor or city man-
25 ager of a city, the president of a village, or the supervisor of
26 a township

1 (g) "Development area" means that area to which a
2 development plan is applicable

3 (h) "Development plan" means that information and those
4 requirements for a development set forth in section 17

5 (i) "Development program" means the implementation of the
6 development plan

7 (j) "Downtown district" means an area in a business district
8 that is specifically designated by ordinance of the governing
9 body of the municipality pursuant to this act

10 (k) "Eligible advance" means an advance made before
11 August 19, 1993

12 (l) "Eligible obligation" means an obligation issued or
13 incurred by an authority or by a municipality on behalf of an
14 authority before August 19, 1993

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

16 (n) "Governing body of a municipality" means the elected
17 body of a municipality having legislative powers

18 (o) "Initial assessed value" means the assessed value as
19 equalized of all the taxable property within the boundaries of
20 the development area at the time the ordinance establishing the
21 tax increment financing plan is approved, as shown by the most
22 recent assessment roll of the municipality for which equalization
23 has been completed at the time the resolution is adopted
24 Property exempt from taxation at the time of the determination of
25 the initial assessed value shall be included as zero For the
26 purpose of determining initial assessed value, property for which
27 a specific local tax is paid in lieu of a property tax shall not

1 be considered to be property that is exempt from taxation The
2 initial assessed value of property for which a specific local tax
3 was paid in lieu of a property tax shall be determined as pro-
4 vided in subdivision (v)

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

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

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

16 (ii) A management contract or a contract for professional
17 services

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

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

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

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

10 (1) A reimbursement agreement between the municipality and
11 an authority it established

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

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

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

18 (s) "Operations" means office maintenance, including sala-
19 ries and expenses of employees, office supplies consultation
20 fees, design costs, and other expenses incurred in the daily man-
21 agement of the authority and planning of its activities

22 (t) "Other protected obligation" means

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

25 (11) An obligation issued or incurred by an authority or by
26 a municipality on behalf of an authority after August 19, 1993,
27 but before December 31, 1994, to finance a project described in a

1 tax increment finance plan approved by the municipality in
2 accordance with this act before August 19, 1993, for which a con-
3 tract for final design is entered into by the municipality or
4 authority before March 1, 1994

5 (111) An obligation incurred by an authority or municipality
6 after August 19, 1993, to reimburse a party to a development
7 agreement entered into by a municipality or authority before
8 August 19, 1993, for a project described in a tax increment
9 financing plan approved in accordance with this act before August
10 19, 1993, and undertaken and installed by that party in accord-
11 ance with the development agreement

12 (u) "Public facility" means a street, plaza, pedestrian
13 mall, and any improvements to a street, plaza or pedestrian mall
14 including street furniture and beautification park parking
15 facility, recreational facility, right of way, structure water-
16 way, bridge, lake, pond, canal, utility line or pipe, building,
17 and access routes to any of the foregoing designed and dedicated
18 to use by the public generally, or used by a public agency
19 Public facility includes an improvement to a facility used by the
20 public or a public facility as those terms are defined in section
21 1 of Act No 1 of the Public Acts of 1966 being section 125 1351
22 of the Michigan Compiled Laws, which improvement is made to
23 comply with the barrier free design requirements of the state
24 construction code promulgated under the state construction code
25 act of 1972, Act No 230 of the Public Acts of 1972, being sec-
26 tions 125 1501 to 125 1531 of the Michigan Compiled Laws

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

17 (w) "State fiscal year" means the annual period commencing
18 October 1 of each year

19 (x) "Tax increment revenues" means the amount of ad valorem
20 property taxes and specific local taxes attributable to the
21 application of the levy of all taxing jurisdictions upon the cap-
22 ture assessed value of real and personal property in the develop-
23 ment area, subject to the following requirements

24 (1) ~~Unless~~ IF the sales tax is levied at the rate of 6-
25 under the general sales tax act, Act No 167 of the Public Acts
26 of 1933, being sections 205 51 to 205 78 of the Michigan Compiled
27 Laws, AND THE FULL APPROPRIATION REQUIRED UNDER SECTION 13C HAS

1 NOT BEEN MADE OR IF THE SALES TAX IS LEVIED AT THE RATE OF 4/
2 UNDER ACT NO 167 OF THE PUBLIC ACTS OF 1933 tax increment reve-
3 nues include ad valorem property taxes levied under the state
4 education tax act or by local or intermediate school districts
5 and specific local taxes attributable to ad valorem property
6 taxes levied under the state education tax act or by local or
7 intermediate school districts, to the extent necessary to repay
8 eligible advances and eligible obligations but not exceeding the
9 amount certified under section 13b(10) and to the extent neces-
10 sary to repay other protected obligations

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

13 (A) Ad valorem property taxes attributable either to a por-
14 tion of the captured assessed value shared with taxing jurisdic-
15 tions within the jurisdictional area of the authority or to a
16 portion of value of property that may be excluded from captured
17 assessed value or specific local taxes attributable to such ad
18 valorem property taxes

19 (B) Ad valorem property taxes excluded by the tax increment
20 financing plan of the authority from the determination of the
21 amount of tax increment revenues to be transmitted to the author-
22 ity or specific local taxes attributable to such ad valorem prop-
23 erty taxes

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

1 Sec 13b (1) ~~Unless~~ IF the sales tax is levied at the
2 rate of 6 $\frac{1}{2}$ under the general sales tax act Act No 167 of the
3 Public Acts of 1933, being sections 205 51 to 205 78 of the
4 Michigan Compiled Laws, AND THE FULL APPROPRIATION REQUIRED UNDER
5 SECTION 13C HAS NOT BEEN MADE OR IF THE SALES TAX IS LEVIED AT
6 THE RATE OF 4 $\frac{1}{2}$ UNDER ACT NO 167 OF THE PUBLIC ACTS OF 1933,
7 THEN, if the amount of tax increment revenues lost as a result of
8 the reduction of taxes levied by local school districts for
9 school operating purposes required by the millage limitations
10 under section 1211 of the school code of 1976, Act No 451 of the
11 Public Acts of 1976, being section 380 1211 of the Michigan
12 Compiled Laws, reduced by the amount of tax increment revenues
13 received from the capture of taxes levied under or attributable
14 to the state education tax act will cause the tax increment rev-
15 enues received in a fiscal year by an authority under section 15
16 to be insufficient to repay an eligible advance or to pay an eli-
17 gible obligation, the legislature shall appropriate and distrib-
18 ute to the authority the amount described in subsection (5)

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

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

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

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

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

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

19 (f) The amount of money other than tax increment revenues,
20 estimated to be received in that fiscal year by the authority
21 that is primarily pledged to, and to be used for, the payment of
22 an eligible obligation or the repayment of an eligible advance
23 That amount shall not include excess tax increment revenues of
24 the authority that are permitted by law to be retained by the
25 authority for purposes that further the development program
26 However, that amount shall include money to be obtained from
27 sources authorized by law, which law is enacted on or after

1 December 1, 1993, for use by the municipality or authority to
2 finance a development project

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

7 (3) For the fiscal year that commences after September 30,
8 1993 and before October 1, 1994, an authority may make a claim
9 for distribution with all information required by subsection (2)
10 at any time after the effective date of this section

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

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

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

1 act, exceed the tax increment revenues the authority actually
2 received for the fiscal year

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

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

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

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

26 (8) A distribution under this section replacing tax
27 increment revenues pledged by an authority or a municipality is

1 subject to the lien of the pledge whether or not there has been
2 physical delivery of the distribution

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

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

14 SEC 13C IF THE SALES TAX IS LEVIED AT THE RATE OF 6/
15 UNDER THE GENERAL SALES TAX ACT, ACT NO 167 OF THE PUBLIC ACTS
16 OF 1933, BEING SECTIONS 205 51 TO 205 78 OF THE MICHIGAN COMPILED
17 LAWS, THE LEGISLATURE SHALL APPROPRIATE AND DISTRIBUTE TO EACH
18 AUTHORITY AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE
19 FOLLOWING

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

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

24 (11) BONDS OR NOTES THAT OTHERWISE MEET THE REQUIREMENTS OF
25 BEING AN OTHER PROTECTED OBLIGATION UNDER SECTION 1(T)

26 (111) OBLIGATIONS EVIDENCING A LOAN FROM AN AGENCY OF THE
27 UNITED STATES GOVERNMENT

1 (B) THE AMOUNT DESCRIBED UNDER SECTION 13B(2)(F)