



SENATE BILL No. 1035

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

A bill to amend sections 2 and 11a of Act No 281 of the
Public Acts of 1986, entitled as amended
"The local development financing act,"
section 2 as amended and section 11a as added by Act No 333 of
the Public Acts of 1993, being sections 125 2152 and 125 2161a of
the Michigan Compiled Laws and to add section 11b

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 2 and 11a of Act No 281 of the Public
2 Acts of 1986, section 2 as amended and section 11a as added by
3 Act No 333 of the Public Acts of 1993, being sections 125 2152
4 and 125 2161a of the Michigan Compiled Laws, are amended and sec-
5 tion 11b is added to read as follows

6 Sec 2 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 in anticipation of repayment by the authority
2 Evidence of the intent to repay an advance may include, but is
3 not limited to, an executed agreement to repay, provisions con-
4 tained in a tax increment financing plan approved prior to the
5 advance, or a resolution of the authority or the municipality

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

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

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

11 (e) "Captured assessed value" means the amount in any 1 year
12 by which the current assessed value as equalized, of the eligi-
13 ble property identified in the tax increment financing plan
14 including the current assessed value of property for which spe-
15 cific local taxes are paid in lieu of property taxes as deter-
16 mined pursuant to subdivision (u) exceeds the initial assessed
17 value The state tax commission shall prescribe the method for
18 calculating captured assessed value

19 (f) "Certified industrial park" means an area of land desig-
20 nated by the department of commerce as meeting all of the follow-
21 ing requirements

22 (i) It contains not less than 40 acres of land

23 (ii) It is zoned exclusively for use for eligible property

24 (iii) It has a site plan or plat approved by the city, vil-
25 lage, or township in which the land is located

26 (iv) The developer of the land agrees to comply with other
27 requirements, not inconsistent with subparagraphs (i) to (iii),

1 imposed upon property classified as a certified industrial park
2 by the department of commerce under the certified industrial park
3 program Compliance with these other requirements is not a pre-
4 requisite to meeting the requirement of this subparagraph

5 (g) "Chief executive officer" means the mayor or city man-
6 ager of a city, the president of a village, or, for other local
7 units of government or school districts, the person charged by
8 law with the supervision of the functions of the local unit of
9 government or school district

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

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

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

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

19 (l) "Eligible property" means land improvements buildings,
20 structures, and other real property and machinery, equipment
21 furniture, and fixtures, or any part or accessory thereof whether
22 completed or in the process of construction comprising an inte-
23 grated whole, located within an authority district of which the
24 primary purpose and use is 1 of the following

25 (1) The manufacture of goods or materials or the processing
26 of goods or materials by physical or chemical change

1 (11) Agricultural processing

2 (111) A high technology activity that has as its primary
3 purpose research, product development, engineering, laboratory
4 testing, or development of industrial technology This subpara-
5 graph applies only to eligible property for which a tax increment
6 financing plan or development plan is adopted and bonds are
7 issued under this act before January 1, 1993

8 (1v) The production of energy by the processing of goods or
9 materials by physical or chemical change by a small power produc-
10 tion facility as defined by the federal energy regulatory commis-
11 sion pursuant to the public utility regulatory policies act of
12 1978, Public Law 95-617, 92 Stat 3117, which facility is fueled
13 primarily by biomass or wood waste This act does not affect a
14 person's rights or liabilities under law with respect to ground-
15 water contamination described in this subparagraph This sub-
16 paragraph applies only if all of the following requirements are
17 met

18 (A) Tax increment revenues captured from the eligible prop-
19 erty will be used to finance, or will be pledged for debt service
20 on tax increment bonds used to finance a public facility in or
21 near the authority district designed to reduce eliminate, or
22 prevent the spread of identified soil and groundwater contamina-
23 tion, pursuant to law

24 (B) The board of the authority exercising powers within the
25 authority district where the eligible property is located adopted
26 an initial tax increment financing plan between January 1 1991
27 and May 1, 1991

1 (C) The municipality that created the authority establishes
2 a special assessment district whereby not less than 50% of the
3 operating expenses of the public facility described in this sub-
4 paragraph will be paid for by special assessments Not less than
5 50% of the amount specially assessed against all parcels in the
6 special assessment district shall be assessed against parcels
7 owned by parties potentially responsible for the identified
8 groundwater contamination pursuant to law

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

10 (n) "Governing body" means the elected body having legisla-
11 tive powers of a municipality creating an authority under this
12 act

13 (o) "Initial assessed value" means the assessed value, as
14 equalized, of the eligible property identified in the tax incre-
15 ment financing plan at the time the resolution establishing the
16 tax increment financing plan is approved as shown by the most
17 recent assessment roll for which equalization has been completed
18 at the time the resolution is adopted Property exempt from tax-
19 ation at the time of the determination of the initial assessed
20 value shall be included as zero Property for which a specific
21 local tax is paid in lieu of property tax shall not be considered
22 exempt from taxation The initial assessed value of property for
23 which a specific local tax was paid in lieu of property tax shall
24 be determined as provided in subdivision (u)

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

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

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

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

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

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

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

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

1 the municipality if the anticipation of the transfer or receipt
2 of tax increment revenues from the authority is pursuant to or
3 evidenced by 1 or more of the following

4 (1) A reimbursement agreement between the municipality and
5 an authority it established

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

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

10 (1v) Provisions in a tax increment financing plan describing
11 the project for which the obligation was incurred

12 (s) "Other protected obligation" means

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

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

22 (111) An obligation incurred by an authority or municipality
23 after August 19, 1993, to reimburse a party to a development
24 agreement entered into by a municipality or authority before
25 August 19, 1993, for a project described in a tax increment
26 financing plan approved in accordance with this act before

1 August 19, 1993, and undertaken and installed by that party in
2 accordance with the development agreement

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

4 (1) A street, road, bridge, sewer sewage treatment facili-
5 ty, facility designed to reduce, eliminate, or prevent the spread
6 of identified soil or groundwater contamination drainage system
7 waterway, waterline, water storage facility, rail line, utility
8 line or pipeline, or other similar or related structure or
9 improvement, together with necessary easements for the structure
10 or improvement, owned or used by a public agency or functionally
11 connected to similar or supporting facilities owned or used by a
12 public agency, or designed and dedicated to use by for the bene-
13 fit of, or for the protection of the health, welfare or safety
14 of the public generally, whether or not used by a single business
15 entity, provided that any road, street, or bridge shall be con-
16 tinuously open to public access and that other facilities shall
17 be located in public easements or rights-of-way and sized to
18 accommodate reasonably foreseeable development of eligible prop-
19 erty in adjoining areas

20 (11) The acquisition and disposal of real and personal prop-
21 erty or an interest in that property demolition of structures
22 site preparation, relocation costs building rehabilitation and
23 all administrative costs related to a public facility including,
24 but not limited to, architect's, engineer's, legal and account-
25 ing fees as contained in the resolution establishing the
26 district's development plan

1 (111) An improvement to a facility used by the public or a
2 public facility as those terms are defined in section 1 of Act
3 No 1 of the Public Acts of 1966, being section 125 1351 of the
4 Michigan Compiled Laws, which improvement is made to comply with
5 the barrier free design requirements of the state construction
6 code promulgated under the state construction code act of 1972,
7 Act No 230 of the Public Acts of 1972, being sections 125 1501
8 to 125 1531 of the Michigan Compiled Laws

9 (u) "Specific local taxes" means a tax levied under Act
10 No 198 of the Public Acts of 1974 being sections 207 551 to
11 207 571 of the Michigan Compiled Laws the commercial redevelop-
12 ment act, Act No 255 of the Public Acts of 1978, being sections
13 207 651 to 207 668 of the Michigan Compiled Laws the enterprise
14 zone act Act No 224 of the Public Acts of 1985 being sections
15 125 2101 to 125 2122 of the Michigan Compiled Laws Act No 189
16 of the Public Acts of 1953, being sections 211 181 to 211 182 of
17 the Michigan Compiled Laws and the technology park development
18 act, Act No 385 of the Public Acts of 1984 being sections
19 207 701 to 207 718 of the Michigan Compiled Laws The initial
20 assessed value or current assessed value of property subject to a
21 specific local tax is the quotient of the specific local tax paid
22 divided by the ad valorem millage rate However after 1993 the
23 state tax commission shall prescribe the method for calculating
24 the initial assessed value and current assessed value of property
25 for which a specific local tax was paid in lieu of a property
26 tax

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

3 (w) "Tax increment revenues" means the amount of ad valorem
4 property taxes and specific local taxes attributable to the
5 application of the levy of all taxing jurisdictions upon the cap-
6 ture assessed value of real and personal property in the develop-
7 ment area, subject to the following requirements

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

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

25 (A) Ad valorem property taxes or specific local taxes
26 attributable either to a portion of the captured assessed value
27 shared with taxing jurisdictions within the jurisdictional area

1 of the authority or to a portion of value of property that may be
2 excluded from captured assessed value

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

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

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

16 (x) "Urban township" means a township that meets all of the
17 following requirements

18 (1) Has a population of 20 000 or more or has a population
19 of 10,000 or more but is located in a county with a population of
20 400,000 or more

21 (11) Adopted a master zoning plan before February 1 1987

22 (111) Provides sewer, water, and other public services to
23 all or a part of the township

24 Sec 11a (1) ~~Unless~~ IF the sales tax is levied at the
25 rate of 6¢ under the general sales tax act, Act No 167 of the
26 Public Acts of 1933, being sections 205 51 to 205 78 of the
27 Michigan Compiled Laws, AND THE FULL APPROPRIATION REQUIRED UNDER

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

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

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

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

26 (c) The tax increment revenues estimated to be received by
27 the authority for that fiscal year based upon actual property tax

1 levies of all taxing jurisdictions within the jurisdictional area
2 of the authority

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

9 (e) A list of eligible obligations and eligible advances and
10 the payments due on each of those eligible obligations or eligi-
11 ble advances in that fiscal year and the total amount of all the
12 payments due on those eligible obligations and eligible advances
13 in that fiscal year

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

25 (g) The amount of a distribution received pursuant to this
26 act for a fiscal year in excess of or less than the distribution

1 that would have been required if calculated upon actual tax
2 increment revenues received for that fiscal year

3 (3) For the fiscal year that commences after September 30,
4 1993 and before October 1 1994, an authority may make a claim
5 for distribution with all information required by subsection (2)
6 at any time after the effective date of this section

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

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

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

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

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

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

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

21 (8) A distribution under this section replacing tax incre-
22 ment revenues pledged by an authority or a municipality is
23 subject to the lien of the pledge, whether or not there has been
24 physical delivery of the distribution

25 (9) Obligations for which distributions are made pursuant to
26 this section are not a debt or liability of this state do not
27 create or constitute an indebtedness, liability or obligation of

1 this state and are not and do not constitute a pledge of the
2 faith and credit of this state

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

9 SEC 11B IF THE SALES TAX IS LEVIED AT THE RATE OF 6/
10 UNDER THE GENERAL SALES TAX ACT ACT NO 167 OF THE PUBLIC ACTS
11 OF 1933, BEING SECTIONS 205 51 TO 205 78 OF THE MICHIGAN COMPILED
12 LAWS, THE LEGISLATURE SHALL APPROPRIATE AND DISTRIBUTE TO EACH
13 AUTHORITY AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE
14 FOLLOWING

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

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

19 (11) BONDS OR NOTES THAT OTHERWISE MEET THE REQUIREMENTS OF
20 BEING AN OTHER PROTECTED OBLIGATION UNDER SECTION 2(S)

21 (111) OBLIGATIONS EVIDENCING A LOAN FROM AN AGENCY OF THE
22 UNITED STATES GOVERNMENT

23 (B) THE AMOUNT DESCRIBED UNDER SECTION 11A(2)(F)