



HOUSE BILL No. 5072

September 19, 1995, Introduced by Reps. Pitoniak, Anthony, Cherry, Ciaramitaro, LaForge, Martinez, DeMars, Price, Baird, Schroer, Kelly, Profit, Gernaat, Wetters, DeHart, Tesanovich, Prusi, Dobronski, Brater, Alley, Law, Freeman, Gire, Agee, Goschka, Voorhees, Scott, Hanley, Parks, Stallworth, Wallace and Murphy and referred to the Committee on Local Government.

A bill to amend sections 1 and 15 of Act No. 450 of the Public Acts of 1980, entitled as amended

"The tax increment finance authority act,"

section 1 as amended by Act No. 329 of the Public Acts of 1994 and section 15 as amended by Act No. 322 of the Public Acts of 1993, being sections 125.1801 and 125.1815 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1 and 15 of Act No. 450 of the Public
2 Acts of 1980, section 1 as amended by Act No. 329 of the Public
3 Acts of 1994 and section 15 as amended by Act No. 322 of the
4 Public Acts of 1993, being sections 125.1801 and 125.1815 of the
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 1. As used in this act:

1 (a) "Advance" means a transfer of funds made by a
2 municipality to an authority or to another person on behalf of
3 the authority. Evidence of the intent to repay an advance is
4 required and may include, but is not limited to, an executed
5 agreement to repay, provisions contained in a tax increment
6 financing plan approved prior to the advance or prior to
7 August 14, 1993, or a resolution of the authority or the
8 municipality.

9 (b) "Authority" means a tax increment finance authority cre-
10 ated pursuant to this act.

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

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

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

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

25 (g) "Development area" means that area to which a develop-
26 ment plan is applicable.

1 (h) "Development area citizens council" or "council" means
2 that advisory body established pursuant to section 20.

3 (i) "Development plan" means that information and those
4 requirements for a development set forth in section 16.

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

7 (k) "Eligible advance" means an advance made before
8 August 19, 1993.

9 (l) "Eligible obligation" means EITHER an obligation issued
10 or incurred by an authority or by a municipality on behalf of an
11 authority before August 19, 1993 OR AN OBLIGATION ISSUED OR
12 INCURRED BY AN AUTHORITY OR BY A MUNICIPALITY ON BEHALF OF AN
13 AUTHORITY TO REFUND A BOND OR NOTE THAT WAS ISSUED OR INCURRED
14 UNDER THIS ACT BEFORE AUGUST 19, 1993.

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

16 (n) "Governing body" means the elected body of a municipal-
17 ity 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 resolution 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 property that is exempt from taxation. The initial
2 assessed value of property for which a specific tax was paid in
3 lieu of a property tax shall be determined as provided in
4 subdivision (u).

5 (p) "Municipality" means a city.

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 advance made or the eligible
7 obligation issued or incurred by the municipality, if the antici-
8 pation of the transfer or receipt of tax increment revenues from
9 the authority is pursuant to or evidenced by 1 or more of the
10 following:

11 (i) A reimbursement agreement between the municipality and
12 an authority it established.

13 (ii) A requirement imposed by law that the authority trans-
14 fer tax increment revenues to the municipality.

15 (iii) A resolution of the authority agreeing to make pay-
16 ments to the incorporating unit.

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

19 (s) "Other protected obligation" means:

20 (i) An obligation issued to refund a bond or note ~~that is~~
21 ~~an eligible obligation~~ DESCRIBED IN SUBPARAGRAPH (ii) OR (iii).

22 (ii) An obligation issued or incurred by an authority or by
23 a municipality on behalf of an authority after August 19, 1993,
24 but before December 31, 1994, to finance a project described in a
25 tax increment finance plan approved by the municipality in
26 accordance with this act before August 19, 1993, for which a

1 contract for final design is entered into by the municipality or
2 authority before March 1, 1994.

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

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

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

20 (ii) The acquisition and disposal of real and personal prop-
21 erty or interests in real and personal property, demolition of
22 structures, site preparation, relocation costs, building rehabil-
23 itation, and all associated administrative costs, including, but
24 not limited to, architect's, engineer's, legal, and accounting
25 fees as contained in the resolution establishing the district's
26 development plan.

1 (iii) 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 tax" means a tax levied under Act
10 No. 198 of the Public Acts of 1974, being sections 207.551 to
11 ~~207.571~~ 207.572 of the Michigan Compiled Laws, the commercial
12 redevelopment act, Act No. 255 of the Public Acts of 1978, being
13 sections 207.651 to 207.668 of the Michigan Compiled Laws, the
14 technology park development act, Act No. 385 of the Public Acts
15 of 1984, being sections 207.701 to 207.718 of the Michigan
16 Compiled Laws, and Act No. 189 of the Public Acts of 1953, being
17 sections 211.181 to 211.182 of the Michigan Compiled Laws. The
18 initial assessed value or current assessed value of property
19 subject to a specific local tax shall be the quotient of the spe-
20 cific local tax paid divided by the ad valorem millage rate.
21 However, after 1993, the state tax commission shall prescribe the
22 method for calculating the initial assessed value and current
23 assessed value of property for which a specific local tax was
24 paid in lieu of a property tax.

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

1 (w) "Tax increment district" or "district" means that area
2 to which the tax increment finance plan pertains.

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

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

10 (i) Tax increment revenues include ad valorem property taxes
11 and specific local taxes attributable to the application of the
12 levy of all taxing jurisdictions other than the state pursuant to
13 the state education tax act, Act No. 331 of the Public Acts of
14 1993, being sections 211.901 to 211.906 of the Michigan Compiled
15 Laws, and local or intermediate school districts upon the cap-
16 tured assessed value of real and personal property in the devel-
17 opment area for any purpose authorized by this act.

18 (ii) Tax increment revenues include ad valorem property
19 taxes and specific local taxes attributable to the application of
20 the levy of the state pursuant to ~~the state education tax act,~~
21 Act No. 331 of the Public Acts of 1993, and local or intermediate
22 school districts upon the captured assessed value of real and
23 personal property in the development area in an amount equal to
24 the amount necessary, without regard to subparagraph (i), to
25 repay eligible advances, eligible obligations, and other pro-
26 tected obligations.

1 (iii) Tax increment revenues do not include any of the
2 following:

3 (A) Ad valorem property taxes attributable either to a por-
4 tion of the captured assessed value shared with taxing jurisdic-
5 tions within the jurisdictional area of the authority or to a
6 portion of value of property that may be excluded from captured
7 assessed value or specific local taxes attributable to such ad
8 valorem property taxes.

9 (B) Ad valorem property taxes excluded by the tax increment
10 financing plan of the authority from the determination of the
11 amount of tax increment revenues to be transmitted to the author-
12 ity or specific local taxes attributable to such ad valorem prop-
13 erty taxes.

14 (iv) The amount of tax increment revenues authorized to be
15 included under subparagraph (ii), and required to be transmitted
16 to the authority under section 14(1), from ad valorem property
17 taxes and specific local taxes attributable to the application of
18 the levy of ~~the state education tax act,~~ Act No. 331 of the
19 Public Acts of 1993, a local school district or an intermediate
20 school district upon the captured assessed value of real and per-
21 sonal property in a development area shall be determined sepa-
22 rately for the levy by the state, each school district, and each
23 intermediate school district as the product of
24 sub-subparagraphs (A) and (B):

25 (A) The percentage which the total ad valorem taxes and spe-
26 cific local taxes available for distribution by law to the state,
27 local school district, or intermediate school district,

1 respectively, bear to the aggregate amount of ad valorem millage
2 taxes and specific taxes available for distribution by law to the
3 state, each local school district, and each intermediate school
4 district.

5 (B) The maximum amount of ad valorem property taxes and spe-
6 cific local taxes considered tax increment revenues under sub-
7 paragraph (ii).

8 Sec. 15. (1) By resolution of its board, the authority may
9 authorize, issue, and sell its tax increment bonds, subject to
10 the limitations set forth in this section, to finance a develop-
11 ment program OR TO REFUND OR REFUND IN ADVANCE BONDS ISSUED UNDER
12 THIS SECTION. The bonds shall mature in not more than 30 years
13 and are subject to the municipal finance act, Act No. 202 of the
14 Public Acts of 1943, ~~as amended,~~ being sections 131.1 to 139.3
15 of the Michigan Compiled Laws. The bonds issued under this sec-
16 tion shall be considered a single series for the purposes of sec-
17 tion 4 of chapter V of Act No. 202 of the Public Acts of 1943,
18 ~~as amended,~~ being section 135.4 of the Michigan Compiled Laws.

19 (2) The municipality by majority vote of the members of its
20 governing body may pledge its full faith and credit for the pay-
21 ment of the principal of and interest on the authority's tax
22 increment bonds. The municipality may pledge as additional
23 security for the bonds any money received by the authority or the
24 municipality pursuant to section 11.