

SENATE BILL No. 1358

September 20, 2000, Introduced by Senator STEIL and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to amend 1975 PA 197, entitled

"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; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,"

by amending section 1 (MCL 125.1651), as amended by 1997 PA 202.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is

1 not limited to, an executed agreement to repay, provisions
2 contained in a tax increment financing plan approved prior to the
3 advance, or a resolution of the authority or the municipality.

4 (b) "Assessed value" means 1 of the following:

5 (i) For valuations made before January 1, 1995, the state
6 equalized valuation as determined under the general property tax
7 act, 1893 PA 206, MCL 211.1 to 211.157.

8 (ii) For valuations made after December 31, 1994, the tax-
9 able value as determined under section 27a of the general prop-
10 erty tax act, 1893 PA 206, MCL 211.27a.

11 (c) "Authority" means a downtown development authority cre-
12 ated pursuant to this act.

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

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

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

23 (g) "Chief executive officer" means the mayor or city man-
24 ager of a city, the president or village manager of a village, or
25 the supervisor of a township or, if designated by the township
26 board for purposes of this act, the township superintendent or
27 township manager of a township.

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

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

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

7 (k) "Downtown district" means THAT PART OF an area in a
8 business district that is specifically designated by ordinance of
9 the governing body of the municipality pursuant to this act. A
10 DOWNTOWN DISTRICT MAY INCLUDE 1 OR MORE SEPARATE AND DISTINCT
11 GEOGRAPHIC AREAS IN A BUSINESS DISTRICT AS DETERMINED BY THE
12 MUNICIPALITY. IF THE DOWNTOWN DISTRICT CONTAINS MORE THAN 1 SEP-
13 ARATE AND DISTINCT GEOGRAPHIC AREA IN THE DOWNTOWN DISTRICT, THE
14 SEPARATE AND DISTINCT GEOGRAPHIC AREAS SHALL BE CONSIDERED 1
15 DOWNTOWN DISTRICT.

16 (l) "Eligible advance" means an advance made before
17 August 19, 1993.

18 (m) "Eligible obligation" means an obligation issued or
19 incurred by an authority or by a municipality on behalf of an
20 authority before August 19, 1993 and its subsequent refunding by
21 a qualified refunding obligation. Eligible obligation includes
22 an authority's written agreement entered into before August 19,
23 1993 to pay an obligation issued after August 18, 1993 and before
24 December 31, 1996 by another entity on behalf of the authority.

25 (n) "Fiscal year" means the fiscal year of the authority.

26 (o) "Governing body of a municipality" means the elected
27 body of a municipality having legislative powers.

1 (p) "Initial assessed value" means the assessed value, as
2 equalized, of all the taxable property within the boundaries of
3 the development area at the time the ordinance establishing the
4 tax increment financing plan is approved, as shown by the most
5 recent assessment roll of the municipality for which equalization
6 has been completed at the time the resolution is adopted.
7 Property exempt from taxation at the time of the determination of
8 the initial assessed value shall be included as zero. For the
9 purpose of determining initial assessed value, property for which
10 a specific local tax is paid in lieu of a property tax shall not
11 be considered to be property that is exempt from taxation. The
12 initial assessed value of property for which a specific local tax
13 was paid in lieu of a property tax shall be determined as pro-
14 vided in subdivision (x). In the case of a municipality having a
15 population of less than 35,000 which established an authority
16 prior to 1985, created a district or districts, and approved a
17 development plan or tax increment financing plan or amendments to
18 a plan, and which plan or tax increment financing plan or amend-
19 ments to a plan, and which plan expired by its terms December 31,
20 1991, the initial assessed value for the purpose of any plan or
21 plan amendment adopted as an extension of the expired plan shall
22 be determined as if the plan had not expired December 31, 1991.
23 For a development area designated before 1997 in which a renaiss-
24 sance zone has subsequently been designated pursuant to the
25 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
26 125.2696, the initial assessed value of the development area
27 otherwise determined under this subdivision shall be reduced by

1 the amount by which the current assessed value of the development
2 area was reduced in 1997 due to the exemption of property under
3 section 7ff of the general property tax act, 1893 PA 206, MCL
4 211.7ff, but in no case shall the initial assessed value be less
5 than zero.

6 (q) "Municipality" means a city, village, or township.

7 (r) "Obligation" means a written promise to pay, whether
8 evidenced by a contract, agreement, lease, sublease, bond, or
9 note, or a requirement to pay imposed by law. An obligation does
10 not include a payment required solely because of default upon an
11 obligation, employee salaries, or consideration paid for the use
12 of municipal offices. An obligation does not include those bonds
13 that have been economically defeased by refunding bonds issued
14 under this act. Obligation includes, but is not limited to, the
15 following:

16 (i) A requirement to pay proceeds derived from ad valorem
17 property taxes or taxes levied in lieu of ad valorem property
18 taxes.

19 (ii) A management contract or a contract for professional
20 services.

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

24 (iv) A requirement to pay or reimburse a person for the cost
25 of insurance for, or to maintain, property subject to a lease,
26 land contract, purchase agreement, or other agreement.

1 (v) A letter of credit, paying agent, transfer agent, bond
2 registrar, or trustee fee associated with a contract, agreement,
3 bond, or note.

4 (s) "On behalf of an authority", in relation to an eligible
5 advance made by a municipality, or an eligible obligation or
6 other protected obligation issued or incurred by a municipality,
7 means in anticipation that an authority would transfer tax incre-
8 ment revenues or reimburse the municipality from tax increment
9 revenues in an amount sufficient to fully make payment required
10 by the eligible advance made by the municipality, or eligible
11 obligation or other protected obligation issued or incurred by
12 the municipality, if the anticipation of the transfer or receipt
13 of tax increment revenues from the authority is pursuant to or
14 evidenced by 1 or more of the following:

15 (i) A reimbursement agreement between the municipality and
16 an authority it established.

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

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

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

23 (t) "Operations" means office maintenance, including sala-
24 ries and expenses of employees, office supplies, consultation
25 fees, design costs, and other expenses incurred in the daily man-
26 agement of the authority and planning of its activities.

1 (u) "Other protected obligation" means:

2 (i) A qualified refunding obligation issued to refund an
3 obligation described in subparagraph (ii), (iii), or (iv), an
4 obligation that is not a qualified refunding obligation that is
5 issued to refund an eligible obligation, or a qualified refunding
6 obligation issued to refund an obligation described in this
7 subparagraph.

8 (ii) An obligation issued or incurred by an authority or by
9 a municipality on behalf of an authority after August 19, 1993,
10 but before December 31, 1994, to finance a project described in a
11 tax increment finance plan approved by the municipality in
12 accordance with this act before December 31, 1993, for which a
13 contract for final design is entered into by or on behalf of the
14 municipality or authority before March 1, 1994.

15 (iii) An obligation incurred by an authority or municipality
16 after August 19, 1993, to reimburse a party to a development
17 agreement entered into by a municipality or authority before
18 August 19, 1993, for a project described in a tax increment
19 financing plan approved in accordance with this act before August
20 19, 1993, and undertaken and installed by that party in accord-
21 ance with the development agreement.

22 (iv) An obligation incurred by the authority evidenced by or
23 to finance a contract to purchase real property within a develop-
24 ment area or a contract to develop that property within the
25 development area, or both, if all of the following requirements
26 are met:

1 (A) The authority purchased the real property in 1993.

2 (B) Before June 30, 1995, the authority enters a contract
3 for the development of the real property located within the
4 development area.

5 (C) In 1993, the authority or municipality on behalf of the
6 authority received approval for a grant from both of the
7 following:

8 (I) The department of natural resources for site reclamation
9 of the real property.

10 (II) The department of consumer and industry services for
11 development of the real property.

12 (v) An ongoing management or professional services contract
13 with the governing body of a county ~~which~~ THAT was entered into
14 before March 1, 1994 and ~~which~~ THAT was preceded by a series of
15 limited term management or professional services contracts with
16 the governing body of the county, the last of which was entered
17 into before August 19, 1993.

18 (vi) A loan from a municipality to an authority if the loan
19 was approved by the legislative body of the municipality on April
20 18, 1994.

21 (vii) Funds expended to match a grant received by a munici-
22 pality on behalf of an authority for sidewalk improvements from
23 the Michigan department of transportation if the legislative body
24 of the municipality approved the grant application on April 5,
25 1993 and the grant was received by the municipality in June
26 1993.

1 (viii) For taxes captured in 1994, an obligation described
2 in this subparagraph issued or incurred to finance a project. An
3 obligation is considered issued or incurred to finance a project
4 described in this subparagraph only if all of the following are
5 met:

6 (A) The obligation requires raising capital for the project
7 or paying for the project, whether or not a borrowing is
8 involved.

9 (B) The obligation was part of a development plan and the
10 tax increment financing plan was approved by a municipality on
11 May 6, 1991.

12 (C) The obligation is in the form of a written memorandum of
13 understanding between a municipality and a public utility dated
14 October 27, 1994.

15 (D) The authority or municipality captured school taxes
16 during 1994.

17 (v) "Public facility" means a street, plaza, pedestrian
18 mall, and any improvements to a street, plaza, or pedestrian mall
19 including street furniture and beautification, park, parking
20 facility, recreational facility, right of way, structure, water-
21 way, bridge, lake, pond, canal, utility line or pipe, building,
22 and access routes to any of the foregoing, designed and dedicated
23 to use by the public generally, or used by a public agency.
24 Public facility includes an improvement to a facility used by the
25 public or a public facility as those terms are defined in section
26 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply
27 with the barrier free design requirements of the state

1 construction code promulgated under the STILLE-DEROSSETT-HALE
2 SINGLE state construction code act, ~~of 1972,~~ 1972 PA 230, MCL
3 125.1501 to 125.1531.

4 (w) "Qualified refunding obligation" means an obligation
5 issued or incurred by an authority or by a municipality on behalf
6 of an authority to refund an obligation if the refunding obliga-
7 tion meets both of the following:

8 (i) The net present value of the principal and interest to
9 be paid on the refunding obligation, including the cost of issu-
10 ance, will be less than the net present value of the principal
11 and interest to be paid on the obligation being refunded, as cal-
12 culated using a method approved by the department of treasury.

13 (ii) The net present value of the sum of the tax increment
14 revenues described in subdivision (z)(ii) and the distributions
15 under section 13b to repay the refunding obligation will not be
16 greater than the net present value of the sum of the tax incre-
17 ment revenues described in subdivision (z)(ii) and the distribu-
18 tions under section 13b to repay the obligation being refunded,
19 as calculated using a method approved by the department of
20 treasury.

21 (x) "Specific local tax" means a tax levied under 1974 PA
22 198, MCL 207.551 to 207.572, the commercial redevelopment act,
23 1978 PA 255, MCL 207.651 to 207.668, the technology park develop-
24 ment act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189,
25 MCL 211.181 to 211.182. The initial assessed value or current
26 assessed value of property subject to a specific local tax shall
27 be the quotient of the specific local tax paid divided by the ad

1 valorem millage rate. However, after 1993, the state tax
2 commission shall prescribe the method for calculating the initial
3 assessed value and current assessed value of property for which a
4 specific local tax was paid in lieu of a property tax.

5 (y) "State fiscal year" means the annual period commencing
6 October 1 of each year.

7 (z) "Tax increment revenues" means the amount of ad valorem
8 property taxes and specific local taxes attributable to the
9 application of the levy of all taxing jurisdictions upon the cap-
10 tured assessed value of real and personal property in the devel-
11 opment area, subject to the following requirements:

12 (i) Tax increment revenues include ad valorem property taxes
13 and specific local taxes attributable to the application of the
14 levy of all taxing jurisdictions other than the state pursuant to
15 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
16 and local or intermediate school districts upon the captured
17 assessed value of real and personal property in the development
18 area for any purpose authorized by this act.

19 (ii) Tax increment revenues include ad valorem property
20 taxes and specific local taxes attributable to the application of
21 the levy of the state pursuant to the state education tax act,
22 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate
23 school districts upon the captured assessed value of real and
24 personal property in the development area in an amount equal to
25 the amount necessary, without regard to subparagraph (i), to
26 repay eligible advances, eligible obligations, and other
27 protected 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 (C) Ad valorem property taxes exempted from capture under
15 section 3(3) or specific local taxes attributable to such ad
16 valorem property taxes.

17 (iv) The amount of tax increment revenues authorized to be
18 included under subparagraph (ii), and required to be transmitted
19 to the authority under section 14(1), from ad valorem property
20 taxes and specific local taxes attributable to the application of
21 the levy of the state education tax act, 1993 PA 331, MCL 211.901
22 to 211.906, a local school district or an intermediate school
23 district upon the captured assessed value of real and personal
24 property in a development area shall be determined separately for
25 the levy by the state, each school district, and each intermedi-
26 ate school district as the product of sub-subparagraphs (A) and
27 (B):

1 (A) The percentage which the total ad valorem taxes and
2 specific local taxes available for distribution by law to the
3 state, local school district, or intermediate school district,
4 respectively, bears to the aggregate amount of ad valorem millage
5 taxes and specific taxes available for distribution by law to the
6 state, each local school district, and each intermediate school
7 district.

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