

HOUSE BILL No. 6431

September 24, 2002, Introduced by Rep. Dennis and referred to the Committee on Commerce.

A bill to amend 1986 PA 281, entitled
"The local development financing act,"
by amending section 2 (MCL 125.2152), as amended by 2000 PA 248.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) As used in this act:

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

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

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

(ii) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a local development finance authority created pursuant to this act.

(d) "Authority district" means an area or areas within which an authority exercises its powers.

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

(f) "Business development area" means an area designated as a certified industrial park under this act ~~prior to the effective date of the amendatory act that added this subdivision~~ BEFORE JUNE 29, 2000, or an area designated in the tax increment financing plan that meets all of the following requirements:

(i) The area is zoned to allow its use for eligible property.

(ii) The area has a site plan or plat approved by the city, village, or township in which the area is located.

(g) "Business incubator" means real and personal property that meets all of the following requirements:

(i) Is located in a certified technology park.

(ii) Is subject to an agreement under section 12a.

(iii) Is developed for the primary purpose of attracting 1 or more owners or tenants who will engage in activities that

1 would each separately qualify the property as eligible property
2 under subdivision (p)(iii).

3 (h) "Captured assessed value" means the amount in any 1 year
4 by which the current assessed value of the eligible property
5 identified in the tax increment financing plan or, for a certi-
6 fied technology park, the real and personal property included in
7 the tax increment financing plan, including the current assessed
8 value of property for which specific local taxes are paid in lieu
9 of property taxes as determined pursuant to subdivision (bb),
10 exceeds the initial assessed value. The state tax commission
11 shall prescribe the method for calculating captured assessed
12 value.

13 (i) "Certified business park" means a business development
14 area that has been designated by the Michigan economic develop-
15 ment corporation as meeting criteria established by the Michigan
16 economic development corporation. The criteria shall establish
17 standards for business development areas including, but not
18 limited to, use, types of building materials, landscaping, set-
19 backs, parking, storage areas, and management.

20 (j) "Certified technology park" means that portion of the
21 authority district designated by a written agreement entered into
22 pursuant to section 12a between the authority, the municipality,
23 and the Michigan economic development corporation.

24 (k) "Chief executive officer" means the mayor or city man-
25 ager of a city, the president of a village, or, for other local
26 units of government or school districts, the person charged by

1 law with the supervision of the functions of the local unit of
2 government or school district.

3 (l) "Development plan" means that information and those
4 requirements for a development set forth in section 15.

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

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

9 (o) "Eligible obligation" means an obligation issued or
10 incurred by an authority or by a municipality on behalf of an
11 authority before August 19, 1993 and its subsequent refunding by
12 a qualified refunding obligation. Eligible obligation includes
13 an authority's written agreement entered into before August 19,
14 1993 to pay an obligation issued after August 18, 1993 and before
15 December 31, 1996 by another entity on behalf of the authority.

16 (p) "Eligible property", EXCEPT AS OTHERWISE PROVIDED IN
17 SUBSECTION (2), means land improvements, buildings, structures,
18 and other real property, and machinery, equipment, furniture, and
19 fixtures, or any part or accessory thereof whether completed or
20 in the process of construction comprising an integrated whole,
21 located within an authority district, of which the primary pur-
22 pose and use is or will be 1 of the following:

23 (i) The manufacture of goods or materials or the processing
24 of goods or materials by physical or chemical change.

25 (ii) Agricultural processing.

26 (iii) A high technology activity.

(iv) The production of energy by the processing of goods or materials by physical or chemical change by a small power production facility as defined by the federal energy regulatory commission pursuant to the public utility regulatory policies act of 1978, Public Law 95-617, 92 Stat. 3117, which facility is fueled primarily by biomass or wood waste. This act does not affect a person's rights or liabilities under law with respect to groundwater contamination described in this subparagraph. This subparagraph applies only if all of the following requirements are met:

(A) Tax increment revenues captured from the eligible property will be used to finance, or will be pledged for debt service on tax increment bonds used to finance, a public facility in or near the authority district designed to reduce, eliminate, or prevent the spread of identified soil and groundwater contamination, pursuant to law.

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

(C) The municipality that created the authority establishes a special assessment district whereby not less than 50% of the operating expenses of the public facility described in this subparagraph will be paid for by special assessments. Not less than 50% of the amount specially assessed against all parcels in the special assessment district shall be assessed against parcels

1 owned by parties potentially responsible for the identified
2 groundwater contamination pursuant to law.

3 (v) A business incubator.

4 (q) "Fiscal year" means the fiscal year of the authority.

5 (r) "Governing body" means the elected body having legisla-
6 tive powers of a municipality creating an authority under this
7 act.

8 (s) "High technology activity" means that term as defined in
9 section 3 of the Michigan economic growth authority act, 1995 PA
10 24, MCL 207.803.

11 (t) "Initial assessed value" means the assessed value of the
12 eligible property identified in the tax increment financing plan
13 or, for a certified technology park, the assessed value of any
14 real and personal property included in the tax increment financ-
15 ing plan, at the time the resolution establishing the tax incre-
16 ment financing plan is approved as shown by the most recent
17 assessment roll for which equalization has been completed at the
18 time the resolution is adopted or, for property that becomes eli-
19 gible property in other than a certified technology park after
20 the date the plan is approved, at the time the property becomes
21 eligible property. Property exempt from taxation at the time of
22 the determination of the initial assessed value shall be included
23 as zero. Property for which a specific local tax is paid in lieu
24 of property tax shall not be considered exempt from taxation.
25 The initial assessed value of property for which a specific local
26 tax was paid in lieu of property tax shall be determined as
27 provided in subdivision (bb).

1 (u) "Michigan economic development corporation" means the
2 public body corporate created under section 28 of article VII of
3 the state constitution of 1963 and the urban cooperation act of
4 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contrac-
5 tual interlocal agreement effective April 5, 1999 between local
6 participating economic development corporations formed under the
7 economic development corporations act, 1974 PA 338, MCL 125.1601
8 to 125.1636, and the Michigan strategic fund. If the Michigan
9 economic development corporation is unable for any reason to per-
10 form its duties under this act, those duties may be exercised by
11 the Michigan strategic fund.

12 (v) "Michigan strategic fund" means the Michigan strategic
13 fund as described in the Michigan strategic fund act, 1984 PA
14 270, MCL 125.2001 to 125.2093.

15 (w) "Municipality" means a city, village, or urban
16 township.

17 (x) "Obligation" means a written promise to pay, whether
18 evidenced by a contract, agreement, lease, sublease, bond, or
19 note, or a requirement to pay imposed by law. An obligation does
20 not include a payment required solely because of default upon an
21 obligation, employee salaries, or consideration paid for the use
22 of municipal offices. An obligation does not include those bonds
23 that have been economically defeased by refunding bonds issued
24 under this act. Obligation includes, but is not limited to, the
25 following:

1 (i) A requirement to pay proceeds derived from ad valorem
2 property taxes or taxes levied in lieu of ad valorem property
3 taxes.

4 (ii) A management contract or a contract for professional
5 services.

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

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

12 (v) A letter of credit, paying agent, transfer agent, bond
13 registrar, or trustee fee associated with a contract, agreement,
14 bond, or note.

15 (y) "On behalf of an authority", in relation to an eligible
16 advance made by a municipality or an eligible obligation or other
17 protected obligation issued or incurred by a municipality, means
18 in anticipation that an authority would transfer tax increment
19 revenues or reimburse the municipality from tax increment reve-
20 nues in an amount sufficient to fully make payment required by
21 the eligible advance made by a municipality, or eligible obliga-
22 tion or other protected obligation issued or incurred by the
23 municipality, if the anticipation of the transfer or receipt of
24 tax increment revenues from the authority is pursuant to or evi-
25 denced by 1 or more of the following:

26 (i) A reimbursement agreement between the municipality and
27 an authority it established.

1 (ii) A requirement imposed by law that the authority
2 transfer tax increment revenues to the municipality.

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

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

7 (z) "Other protected obligation" means:

8 (i) A qualified refunding obligation issued to refund an
9 obligation described in subparagraph (ii) or (iii), an obligation
10 that is not a qualified refunding obligation that is issued to
11 refund an eligible obligation, or a qualified refunding obliga-
12 tion issued to refund an obligation described in this
13 subparagraph.

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

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

1 (iv) An ongoing management or professional services contract
2 with the governing body of a county that was entered into before
3 March 1, 1994 and that was preceded by a series of limited term
4 management or professional services contracts with the governing
5 body of the county, the last of which was entered into before
6 August 19, 1993.

7 (aa) "Public facility" means 1 or more of the following:

8 (i) A street, road, bridge, storm water or sanitary sewer,
9 sewage treatment facility, facility designed to reduce, elimi-
10 nate, or prevent the spread of identified soil or groundwater
11 contamination, drainage system, retention basin, pretreatment
12 facility, waterway, waterline, water storage facility, rail line,
13 electric, gas, telephone or other communications, or any other
14 type of utility line or pipeline, or other similar or related
15 structure or improvement, together with necessary easements for
16 the structure or improvement. Except for rail lines, utility
17 lines, or pipelines, the structures or improvements described in
18 this subparagraph shall be either owned or used by a public
19 agency, functionally connected to similar or supporting facili-
20 ties owned or used by a public agency, or designed and dedicated
21 to use by, for the benefit of, or for the protection of the
22 health, welfare, or safety of the public generally, whether or
23 not used by a single business entity. Any road, street, or
24 bridge shall be continuously open to public access. A public
25 facility shall be located on public property or in a public,
26 utility, or transportation easement or right-of-way.

1 (ii) The acquisition and disposal of land that is proposed
2 or intended to be used in the development of eligible property or
3 an interest in that land, demolition of structures, site prepara-
4 tion, and relocation costs.

5 (iii) All administrative and real and personal property
6 acquisition and disposal costs related to a public facility
7 described in subparagraphs (i) and (iv), including, but not
8 limited to, architect's, engineer's, legal, and accounting fees
9 as permitted by the district's development plan.

10 (iv) An improvement to a facility used by the public or a
11 public facility as those terms are defined in section 1 of 1966
12 PA 1, MCL 125.1351, which improvement is made to comply with the
13 barrier free design requirements of the state construction code
14 promulgated under the STILLE-DEROSSETT-HALE SINGLE STATE CON-
15 STRUCTION CODE ACT, ~~of 1972,~~ 1972 PA 230, MCL 125.1501 to
16 125.1531.

17 (v) All of the following costs approved by the Michigan eco-
18 nomic development corporation:

19 (A) Operational costs and the costs related to the acquisi-
20 tion, improvement, preparation, demolition, disposal, construc-
21 tion, reconstruction, remediation, rehabilitation, restoration,
22 preservation, maintenance, repair, furnishing, and equipping of
23 land and other assets that are or may become eligible for depre-
24 ciation under the internal revenue code of 1986 for a business
25 incubator located in a certified technology park.

26 (B) Costs related to the acquisition, improvement,
27 preparation, demolition, disposal, construction, reconstruction,

1 remediation, rehabilitation, restoration, preservation,
2 maintenance, repair, furnishing, and equipping of land and other
3 assets that, if privately owned, would be eligible for deprecia-
4 tion under the internal revenue code of 1986 for laboratory
5 facilities, research and development facilities, conference
6 facilities, teleconference facilities, testing, training facili-
7 ties, and quality control facilities that are or that support
8 eligible property under subdivision (p)(iii), that are owned by a
9 public entity, and that are located within a certified technology
10 park.

11 (vi) Operating and planning costs included in a plan pursu-
12 ant to section 12(1)(f), including costs of marketing property
13 within the district and attracting development of eligible prop-
14 erty within the district.

15 (bb) "Qualified refunding obligation" means an obligation
16 issued or incurred by an authority or by a municipality on behalf
17 of an authority to refund an obligation if the refunding obliga-
18 tion meets both of the following:

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

24 (ii) The net present value of the sum of the tax increment
25 revenues described in subdivision (ee)(ii) and the distributions
26 under section 11a to repay the refunding obligation will not be
27 greater than the net present value of the sum of the tax

1 increment revenues described in subdivision (ee)(ii) and the
2 distributions under section 11a to repay the obligation being
3 refunded, as calculated using a method approved by the department
4 of treasury.

5 (cc) "Specific local taxes" means a tax levied under 1974 PA
6 198, MCL 207.551 to 207.572, the obsolete property rehabilitation
7 act, 2000 PA 146, MCL 125.2781 TO 125.2797, the commercial rede-
8 velopment act, 1978 PA 255, MCL 207.651 to 207.668, the enter-
9 prise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA
10 189, MCL 211.181 to 211.182, and the technology park development
11 act, 1984 PA 385, MCL 207.701 to 207.718. The initial assessed
12 value or current assessed value of property subject to a specific
13 local tax is the quotient of the specific local tax paid divided
14 by the ad valorem millage rate. However, after 1993, the state
15 tax commission shall prescribe the method for calculating the
16 initial assessed value and current assessed value of property for
17 which a specific local tax was paid in lieu of a property tax.

18 (dd) "State fiscal year" means the annual period commencing
19 October 1 of each year.

20 (ee) "Tax increment revenues" means the amount of ad valorem
21 property taxes and specific local taxes attributable to the
22 application of the levy of all taxing jurisdictions upon the cap-
23 tured assessed value of eligible property within the district or,
24 for purposes of a certified technology park, real or personal
25 property that is located within the certified technology park and
26 included within the tax increment financing plan, subject to the
27 following requirements:

1 (i) Tax increment revenues include ad valorem property taxes
2 and specific local taxes attributable to the application of the
3 levy of all taxing jurisdictions, other than the state pursuant
4 to the state education tax act, 1993 PA 331, MCL 211.901 to
5 211.906, and local or intermediate school districts, upon the
6 captured assessed value of real and personal property in the
7 development area for any purpose authorized by this act.

8 (ii) Tax increment revenues include ad valorem property
9 taxes and specific local taxes attributable to the application of
10 the levy of the state pursuant to the state education tax act,
11 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate
12 school districts upon the captured assessed value of real and
13 personal property in the development area in an amount equal to
14 the amount necessary, without regard to subparagraph (i), for the
15 following purposes:

16 (A) To repay eligible advances, eligible obligations, and
17 other protected obligations.

18 (B) To fund or to repay an advance or obligation issued by
19 or on behalf of an authority to fund the cost of public facili-
20 ties related to or for the benefit of eligible property located
21 within a certified technology park to the extent the public
22 facilities have been included in an agreement under section
23 12a(3), not to exceed 50%, as determined by the state treasurer,
24 of the amounts levied by the state pursuant to the state educa-
25 tion tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and
26 intermediate school districts for a period not to exceed 15
27 years, as determined by the state treasurer, if the state

1 treasurer determines that the capture under this subparagraph is
2 necessary to reduce unemployment, promote economic growth, and
3 increase capital investment in the municipality.

4 (iii) Tax increment revenues do not include any of the
5 following:

6 (A) Ad valorem property taxes or specific local taxes that
7 are excluded from and not made part of the tax increment financ-
8 ing plan.

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

14 (C) Ad valorem property taxes exempted from capture under
15 section 4(3) or specific local taxes attributable to such ad
16 valorem property taxes.

17 (D) Ad valorem property taxes specifically levied for the
18 payment of principal and interest of obligations approved by the
19 electors or obligations pledging the unlimited taxing power of
20 the local governmental unit or specific local taxes attributable
21 to such ad valorem property taxes.

22 (E) The amount of ad valorem property taxes or specific
23 taxes captured by a downtown development authority under 1975
24 PA 197, MCL 125.1651 to 125.1681, tax increment financing author-
25 ity under the tax increment finance authority act, 1980 PA 450,
26 MCL 125.1801 to 125.1830, or brownfield redevelopment authority
27 under the brownfield redevelopment financing act, 1996 PA 381,

1 MCL 125.2651 to 125.2672, if those taxes were captured by these
2 other authorities on the date that the initial assessed value of
3 a parcel of property was established under this act.

4 (iv) The amount of tax increment revenues authorized to be
5 included under subparagraph (ii), and required to be transmitted
6 to the authority under section 13(1), from ad valorem property
7 taxes and specific local taxes attributable to the application of
8 the levy of the state education tax act, 1993 PA 331, MCL 211.901
9 to 211.906, or a local school district or an intermediate school
10 district upon the captured assessed value of real and personal
11 property in a development area shall be determined separately for
12 the levy by the state, each school district, and each intermedi-
13 ate school district as the product of sub-subparagraphs (A) and
14 (B):

15 (A) The percentage that the total ad valorem taxes and spe-
16 cific local taxes available for distribution by law to the state,
17 local school district, or intermediate school district, respec-
18 tively, bears to the aggregate amount of ad valorem millage taxes
19 and specific taxes available for distribution by law to the
20 state, each local school district, and each intermediate school
21 district.

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

25 (ff) "Urban township" means a township that meets 1 or more
26 of the following:

1 (i) Meets all of the following requirements:

2 (A) Has a population of 20,000 or more, or has a population
3 of 10,000 or more but is located in a county with a population of
4 400,000 or more.

5 (B) Adopted a master zoning plan before February 1, 1987.

6 (C) Provides sewer, water, and other public services to all
7 or a part of the township.

8 (ii) Meets all of the following requirements:

9 (A) Has a population of less than 20,000.

10 (B) Is located in a county with a population of 250,000 or
11 more but less than 400,000, and that county is located in a met-
12 ropolitan statistical area.

13 (C) Has within its boundaries a parcel of property under
14 common ownership that is 800 acres or larger and is capable of
15 being served by a railroad, and located within 3 miles of a
16 limited access highway.

17 (D) Establishes an authority before December 31, 1998.

18 (iii) Meets all of the following requirements:

19 (A) Has a population of less than 20,000.

20 (B) Has a state equalized value for all real and personal
21 property located in the township of more than \$200,000,000.00.

22 (C) Adopted a master zoning plan before February 1, 1987.

23 (D) Is a charter township under the charter township act,
24 1947 PA 359, MCL 42.1 to 42.34.

25 (E) Has within its boundaries a combination of parcels under
26 common ownership that is 800 acres or larger, is immediately
27 adjacent to a limited access highway, is capable of being served

1 by a railroad, and is immediately adjacent to an existing sewer
2 line.

3 (F) Establishes an authority before March 1, 1999.

4 (2) ELIGIBLE PROPERTY DEFINED IN SUBSECTION (1) DOES NOT
5 INCLUDE A FACILITY, PLANT, OR OTHER PROPERTY THAT HAS AS ITS PRI-
6 MARY PURPOSE THE PACKAGING, PRODUCTION, OR BOTTLING OF WATER
7 INTENDED FOR HUMAN CONSUMPTION IN SEALED CONTAINERS LESS THAN 1
8 GALLON IN SIZE AND THAT HAS NO ADDITIONAL ADDED INGREDIENTS.