

# HOUSE BILL No. 4344

March 13, 2003, Introduced by Reps. Wojno, Accavitti, Bieda, Rocca, Plakas, Condino, Stakoe, Gleason, Nofs, Steil and Vagnozzi and referred to the Committee on Commerce.

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 taxable  
9 value as determined under section 27a of the general property tax  
10 act, 1893 PA 206, MCL 211.27a.

11 (c) "Authority" means a downtown development authority  
12 created 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,  
18 including the assessed value of property for which specific local  
19 taxes are paid in lieu of property taxes as determined in  
20 subdivision (x), exceeds the initial assessed value. The state  
21 tax commission shall prescribe the method for calculating  
22 captured assessed value.

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

1 (h) "Development area" means that area to which a development  
2 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**  
13 **separate and distinct geographic area in the downtown district,**  
14 **the 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 body  
27 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  
14 provided in subdivision (x). In the case of a municipality  
15 having a population of less than 35,000 ~~which~~ **that** established  
16 an authority prior to 1985, created a district or districts, and  
17 approved a development plan or tax increment financing plan or  
18 amendments to a plan, and which plan or tax increment financing  
19 plan or amendments to a plan, and which plan expired by its terms  
20 December 31, 1991, the initial assessed value for the purpose of  
21 any plan or plan amendment adopted as an extension of the expired  
22 plan shall be determined as if the plan had not expired  
23 December 31, 1991. For a development area designated before 1997  
24 in which a renaissance zone has subsequently been designated  
25 pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL  
26 125.2681 to 125.2696, the initial assessed value of the  
27 development area otherwise determined under this subdivision

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

27 (v) A letter of credit, paying agent, transfer agent, bond

1 registrar, or trustee fee associated with a contract, agreement,  
2 bond, or note.

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

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

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

18 (iii) A resolution of the authority agreeing to make payments  
19 to the incorporating unit.

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

22 (t) "Operations" means office maintenance, including salaries  
23 and expenses of employees, office supplies, consultation fees,  
24 design costs, and other expenses incurred in the daily management  
25 of the authority and planning of its activities.

26 (u) "Other protected obligation" means:

27 (i) A qualified refunding obligation issued to refund an

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

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

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

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

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

26 (B) Before June 30, 1995, the authority enters a contract for  
27 the development of the real property located within the

1 development area.

2 (C) In 1993, the authority or municipality on behalf of the  
3 authority received approval for a grant from both of the  
4 following:

5 (I) The department of natural resources for site reclamation  
6 of the real property.

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

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

15 (vi) A loan from a municipality to an authority if the loan  
16 was approved by the legislative body of the municipality on April  
17 18, 1994.

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

24 (viii) For taxes captured in 1994, an obligation described in  
25 this subparagraph issued or incurred to finance a project. An  
26 obligation is considered issued or incurred to finance a project  
27 described in this subparagraph only if all of the following are



1 met:

2 (A) The obligation requires raising capital for the project  
3 or paying for the project, whether or not a borrowing is  
4 involved.

5 (B) The obligation was part of a development plan and the tax  
6 increment financing plan was approved by a municipality on May 6,  
7 1991.

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

11 (D) The authority or municipality captured school taxes  
12 during 1994.

13 (v) "Public facility" means a street, plaza, pedestrian mall,  
14 and any improvements to a street, plaza, or pedestrian mall  
15 including street furniture and beautification, park, parking  
16 facility, recreational facility, right of way, structure,  
17 waterway, bridge, lake, pond, canal, utility line or pipe,  
18 building, and access routes to any of the foregoing, designed and  
19 dedicated to use by the public generally, or used by a public  
20 agency. Public facility includes an improvement to a facility  
21 used by the public or a public facility as those terms are  
22 defined in section 1 of 1966 PA 1, MCL 125.1351, which  
23 improvement is made to comply with the barrier free design  
24 requirements of the state construction code promulgated under the  
25 **Stille-DeRossett-Hale single** state construction code act, ~~of~~  
26 ~~1972,~~ 1972 PA 230, MCL 125.1501 to 125.1531.

27 (w) "Qualified refunding obligation" means an obligation

1 issued or incurred by an authority or by a municipality on behalf  
2 of an authority to refund an obligation if the refunding  
3 obligation meets both of the following:

4 (i) The net present value of the principal and interest to be  
5 paid on the refunding obligation, including the cost of issuance,  
6 will be less than the net present value of the principal and  
7 interest to be paid on the obligation being refunded, as  
8 calculated using a method approved by the department of  
9 treasury.

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

18 (x) "Specific local tax" means a tax levied under 1974 PA  
19 198, MCL 207.551 to 207.572, the commercial redevelopment act,  
20 1978 PA 255, MCL 207.651 to 207.668, the technology park  
21 development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA  
22 189, MCL 211.181 to 211.182. The initial assessed value or  
23 current assessed value of property subject to a specific local  
24 tax shall be the quotient of the specific local tax paid divided  
25 by the ad valorem millage rate. However, after 1993, the state  
26 tax commission shall prescribe the method for calculating the  
27 initial assessed value and current assessed value of property for

1 which a specific local tax was paid in lieu of a property tax.

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

4 (z) "Tax increment revenues" means the amount of ad valorem  
5 property taxes and specific local taxes attributable to the  
6 application of the levy of all taxing jurisdictions upon the  
7 captured assessed value of real and personal property in the  
8 development area, subject to the following requirements:

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

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

24 (iii) Tax increment revenues do not include any of the  
25 following:

26 (A) Ad valorem property taxes attributable either to a  
27 portion of the captured assessed value shared with taxing

1 jurisdictions within the jurisdictional area of the authority or  
2 to a portion of value of property that may be excluded from  
3 captured assessed value or specific local taxes attributable to  
4 such ad valorem property taxes.

5 (B) Ad valorem property taxes excluded by the tax increment  
6 financing plan of the authority from the determination of the  
7 amount of tax increment revenues to be transmitted to the  
8 authority or specific local taxes attributable to such ad valorem  
9 property taxes.

10 (C) Ad valorem property taxes exempted from capture under  
11 section 3(3) or specific local taxes attributable to such ad  
12 valorem property taxes.

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

24 (A) The percentage which the total ad valorem taxes and  
25 specific local taxes available for distribution by law to the  
26 state, local school district, or intermediate school district,  
27 respectively, bears to the aggregate amount of ad valorem millage

1 taxes and specific taxes available for distribution by law to the  
2 state, each local school district, and each intermediate school  
3 district.

4 (B) The maximum amount of ad valorem property taxes and  
5 specific local taxes considered tax increment revenues under  
6 subparagraph (ii).