

SENATE BILL No. 338

March 25, 2003, Introduced by Senator JOHNSON and referred to the Committee on Local, Urban and State 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 sections 1 and 29 (MCL 125.1651 and 125.1679), section 1 as amended by 1997 PA 202 and section 29 as amended by 2001 PA 68.

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

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
4 contained in a tax increment financing plan approved prior to the
5 advance, or a resolution of the authority or the municipality.

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

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

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

13 (c) "Authority" means a downtown development authority
14 created pursuant to this act.

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

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

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

25 (g) "Chief executive officer" means the mayor or city manager
26 of a city, the president or village manager of a village, or the
27 supervisor of a township or, if designated by the township board

1 for purposes of this act, the township superintendent or township
2 manager of a township.

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

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

7 (j) "Development program" means the implementation of the
8 development plan.

9 (k) "Downtown district" means an area in a business district
10 that is specifically designated by ordinance of the governing
11 body of the municipality pursuant to this act.

12 (l) "Eligible advance" means an advance made before
13 August 19, 1993.

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

21 **(n) "Fire alarm system" means a system designed to detect and**
22 **annunciate the presence of fire, or by-products of fire. Fire**
23 **alarm system includes smoke detectors.**

24 (o) ~~-(n)-~~ "Fiscal year" means the fiscal year of the
25 authority.

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

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

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

7 **(r)** ~~-(q)-~~ "Municipality" means a city, village, or township.

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

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

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

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

25 (iv) A requirement to pay or reimburse a person for the cost
26 of insurance for, or to maintain, property subject to a lease,
27 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 (t) ~~-(s)-~~ "On behalf of an authority", in relation to an
5 eligible advance made by a municipality, or an eligible
6 obligation or other protected obligation issued or incurred by a
7 municipality, means in anticipation that an authority would
8 transfer tax increment revenues or reimburse the municipality
9 from tax increment revenues in an amount sufficient to fully make
10 payment required by the eligible advance made by the
11 municipality, or eligible obligation or other protected
12 obligation issued or incurred by the municipality, if the
13 anticipation of the transfer or receipt of tax increment revenues
14 from the authority is pursuant to or evidenced by 1 or more of
15 the following:

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

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

20 (iii) A resolution of the authority agreeing to make payments
21 to the incorporating unit.

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

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

(v) ~~-(u)-~~ "Other protected obligation" means:

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

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

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

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

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

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

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

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

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

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

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

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

26 (viii) For taxes captured in 1994, an obligation described in
27 this subparagraph issued or incurred to finance a project. An

1 obligation is considered issued or incurred to finance a project
2 described in this subparagraph only if all of the following are
3 met:

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

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

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

13 (D) The authority or municipality captured school taxes
14 during 1994.

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

1 ~~1972,~~ 1972 PA 230, MCL 125.1501 to 125.1531.

2 **(x)** ~~-(w)-~~ "Qualified refunding obligation" means an
3 obligation issued or incurred by an authority or by a
4 municipality on behalf of an authority to refund an obligation if
5 the refunding obligation meets both of the following:

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

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

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

1 tax commission shall prescribe the method for calculating the
2 initial assessed value and current assessed value of property for
3 which a specific local tax was paid in lieu of a property tax.

4 **(z)** ~~-(y)-~~ "State fiscal year" means the annual period
5 commencing October 1 of each year.

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

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

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

26 *(iii)* Tax increment revenues do not include any of the
27 following:

1 (A) Ad valorem property taxes attributable either to a
2 portion of the captured assessed value shared with taxing
3 jurisdictions within the jurisdictional area of the authority or
4 to a portion of value of property that may be excluded from
5 captured assessed value or specific local taxes attributable to
6 such ad valorem property taxes.

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

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

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

26 (A) The percentage ~~which~~ **that** the total ad valorem taxes
27 and specific local taxes available for distribution by law to the

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

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

9 Sec. 29. (1) A public facility, building, or structure that
10 is determined by the municipality to have significant historical
11 interests shall be preserved in a manner as considered necessary
12 by the municipality in accordance with laws relative to the
13 preservation of historical sites. **The preservation of**
14 **facilities, buildings, or structures determined to be historic**
15 **sites by a municipality shall include, at a minimum, equipping**
16 **the historic site with a fire alarm system.**

17 (2) An authority shall refer all proposed changes to the
18 exterior of sites listed on the state register of historic sites
19 and the national register of historic places to the applicable
20 historic district commission created under the local historic
21 districts act, 1970 PA 169, MCL 399.201 to 399.215, or the
22 department of history, arts, and libraries for review.