

# HOUSE BILL No. 4545

March 23, 2005, Introduced by Reps. Taub, Meyer, Pavlov, Garfield, Marleau and Nofs and referred to the Committee on Commerce.

A bill to amend 1980 PA 450, entitled  
"The tax increment finance authority act,"  
by amending section 1 (MCL 125.1801), as amended by 1998 PA 499.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. As used in this act:

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

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

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

4 (ii) For valuations made after December 31, 1994, taxable value  
5 as determined under section 27a of the general property tax act,  
6 1893 PA 206, MCL 211.27a.

7 (c) "Authority" means a tax increment finance authority  
8 created under this act.

9 (d) "Authority district" means that area within which an  
10 authority exercises its powers and within which 1 or more  
11 development areas may exist.

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

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

20 (g) "Chief executive officer" means the mayor or city manager  
21 of a city, the president of a village, or the supervisor of a  
22 township.

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

25 (i) "Development area citizens council" or "council" means  
26 that advisory body established pursuant to section 20.

27 (j) "Development plan" means that information and those

1 requirements for a development set forth in section 16.

2 (k) "Development program" means the implementation of the  
3 development plan.

4 (l) "Eligible advance" means an advance made before August 19,  
5 1993.

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

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

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

16 (p) "Initial assessed value" means the assessed value, as  
17 equalized, of all the taxable property within the boundaries of the  
18 development area at the time the resolution establishing the tax  
19 increment financing plan is approved as shown by the most recent  
20 assessment roll of the municipality for which equalization has been  
21 completed at the time the resolution is adopted. Property exempt  
22 from taxation at the time of the determination of the initial  
23 assessed value shall be included as zero. For the purpose of  
24 determining initial assessed value, property for which a specific  
25 local tax is paid in lieu of a property tax shall not be considered  
26 property that is exempt from taxation. The initial assessed value  
27 of property for which a specific tax was paid in lieu of a property

1 tax shall be determined as provided in subdivision (w).

2 (q) "Municipality" means a city.

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

12 (i) A requirement to pay proceeds derived from ad valorem  
13 property taxes or taxes levied in lieu of ad valorem property  
14 taxes.

15 (ii) A management contract or a contract for professional  
16 services.

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

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

23 (v) A letter of credit, paying agent, transfer agent, bond  
24 registrar, or trustee fee associated with a contract, agreement,  
25 bond, or note.

26 (s) "On behalf of an authority", in relation to an eligible  
27 advance made by a municipality, or an eligible obligation or other

protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or the eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

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

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

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

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

(t) "Other protected obligation" means:

(i) A qualified refunding obligation issued to refund an obligation described in subparagraph (ii) or (iii), 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

1 with this act before December 31, 1993, for which a contract for  
2 final design is entered into by the municipality or authority  
3 before March 1, 1994.

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

11 (iv) An obligation issued or incurred by an authority or by a  
12 municipality on behalf of an authority to implement a project  
13 described in a tax increment finance plan approved by the  
14 municipality in accordance with this act before August 19, 1993,  
15 that is located on land owned by a public university on the date  
16 the tax increment financing plan is approved, and for which a  
17 contract for final design is entered into before December 31, 1993.

18 (v) An ongoing management or professional services contract  
19 with the governing body of a county which was entered into before  
20 March 1, 1994 and which was preceded by a series of limited term  
21 management or professional services contracts with the governing  
22 body of the county, the last of which was entered into before  
23 August 19, 1993.

24 (vi) An obligation issued or incurred by a municipality under a  
25 contract executed on December 19, 1994 as subsequently amended  
26 between the municipality and the authority to implement a project  
27 described in a tax increment finance plan approved by the

1 municipality under this act before August 19, 1993 for which a  
2 contract for final design was entered into by the municipality  
3 before March 1, 1994 provided that final payment by the  
4 municipality is made on or before December 31, 2001.

5 (vii) An obligation issued or incurred by an authority or by a  
6 municipality on behalf of an authority that meets all of the  
7 following qualifications:

8 (A) The obligation is issued or incurred to finance a project  
9 described in a tax increment financing plan approved before August  
10 19, 1993 by a municipality in accordance with this act.

11 (B) The obligation qualifies as an other protected obligation  
12 under subparagraph (ii) and was issued or incurred by the authority  
13 before December 31, 1994 for the purpose of financing the project.

14 (C) A portion of the obligation issued or incurred by the  
15 authority before December 31, 1994 for the purpose of financing the  
16 project was retired prior to December 31, 1996.

17 (D) The obligation does not exceed the dollar amount of the  
18 portion of the obligation retired prior to December 31, 1996.

19 **(viii) AN OBLIGATION ISSUED OR INCURRED BY A MUNICIPALITY UNDER**  
20 **A CONTRACT WITH A COUNTY ROAD COMMISSION EXECUTED BEFORE OCTOBER 1,**  
21 **1993 TO IMPLEMENT A PROJECT DESCRIBED IN A TAX INCREMENT FINANCE**  
22 **PLAN APPROVED BY THE MUNICIPALITY UNDER THIS ACT BEFORE AUGUST 19,**  
23 **1993. THIS SUBSECTION SHALL APPLY TO THE CAPTURE OF TAX INCREMENT**  
24 **REVENUES FOR TAXES LEVIED IN 1994 AND SUBSEQUENT YEARS.**

25 (u) "Public facility" means 1 or more of the following:

26 (i) A street, plaza, or pedestrian mall, and any improvements  
27 to a street, plaza, boulevard, alley, or pedestrian mall, including

1 street furniture and beautification, park, parking facility,  
2 recreation facility, playground, school, library, public  
3 institution or administration building, right of way, structure,  
4 waterway, bridge, lake, pond, canal, utility line or pipeline, and  
5 other similar facilities and necessary easements of these  
6 facilities designed and dedicated to use by the public generally or  
7 used by a public agency. As used in this subparagraph, public  
8 institution or administration building includes, but is not limited  
9 to, a police station, fire station, court building, or other public  
10 safety facility.

11 (ii) The acquisition and disposal of real and personal property  
12 or interests in real and personal property, demolition of  
13 structures, site preparation, relocation costs, building  
14 rehabilitation, and all associated administrative costs, including,  
15 but not limited to, architect's, engineer's, legal, and accounting  
16 fees as contained in the resolution establishing the district's  
17 development plan.

18 (iii) An improvement to a facility used by the public or a  
19 public facility as those terms are defined in section 1 of 1966 PA  
20 1, MCL 125.1351, which improvement is made to comply with the  
21 barrier free design requirements of the state construction code  
22 promulgated under the **STILLE-DEROSSETT-HALE SINGLE** state  
23 construction code act, ~~of 1972,~~ 1972 PA 230, MCL 125.1501 to  
24 125.1531.

25 (v) "Qualified refunding obligation" means an obligation  
26 issued or incurred by an authority or by a municipality on behalf  
27 of an authority to refund an obligation if the refunding obligation



1 meets both of the following:

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

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

14 (w) "Specific local tax" means a tax levied under 1974 PA 198,  
15 MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA  
16 255, MCL 207.651 to 207.668, the technology park development act,  
17 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181  
18 to 211.182. The initial assessed value or current assessed value of  
19 property subject to a specific local tax shall be the quotient of  
20 the specific 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 paid  
24 in lieu of a property tax.

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

27 (y) "Tax increment district" or "district" means that area to

1 which the tax increment finance plan pertains.

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

4 (aa) "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 PA  
19 331, 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 portion  
27 of the captured assessed value shared with taxing jurisdictions

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

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

20 (A) The percentage which the total ad valorem taxes and  
21 specific local taxes available for distribution by law to the  
22 state, local school district, or intermediate school district,  
23 respectively, bear to the aggregate amount of ad valorem millage  
24 taxes and specific taxes available for distribution by law to the  
25 state, each local school district, and each intermediate school  
26 district.

27 (B) The maximum amount of ad valorem property taxes and

- 1 specific local taxes considered tax increment revenues under
- 2 subparagraph (ii).