

HOUSE BILL No. 6510

September 24, 2008, Introduced by Rep. Hildenbrand and referred to the Committee on New Economy and Quality of Life.

A bill to amend 1986 PA 281, entitled
"The local development financing act,"
by amending section 12 (MCL 125.2162), as amended by 2000 PA 248.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12. (1) If the board determines that it is necessary for
2 the achievement of the purposes of this act, the board shall
3 prepare and submit a tax increment financing plan to the governing
4 body. The plan shall be in compliance with section 13 and shall
5 include a development plan as provided in section 15. The plan
6 shall also contain the following:

7 (a) A statement of the reasons that the plan will result in
8 the development of captured assessed value that could not otherwise
9 be expected. The reasons may include, but are not limited to,

1 activities of the municipality, authority, or others undertaken
2 before formulation or adoption of the plan in reasonable
3 anticipation that the objectives of the plan would be achieved by
4 some means.

5 (b) An estimate of the captured assessed value for each year
6 of the plan. The plan may provide for the use of part or all of the
7 captured assessed value or, subject to subsection (3), of the tax
8 increment revenues attributable to the levy of any taxing
9 jurisdiction, but the portion intended to be used shall be clearly
10 stated in the plan. The board or the municipality creating the
11 authority may exclude from captured assessed value a percentage of
12 captured assessed value as specified in the plan or growth in
13 property value resulting solely from inflation. If excluded, the
14 plan shall set forth the method for excluding growth in property
15 value resulting solely from inflation.

16 (c) The estimated tax increment revenues for each year of the
17 plan.

18 (d) A detailed explanation of the tax increment procedure.

19 (e) The maximum amount of note or bonded indebtedness to be
20 incurred, if any.

21 (f) The amount of operating and planning expenditures of the
22 authority and municipality, the amount of advances extended by or
23 indebtedness incurred by the municipality, and the amount of
24 advances by others to be repaid from tax increment revenues.

25 (g) The costs of the plan anticipated to be paid from tax
26 increment revenues as received.

27 (h) The duration of the development plan and the tax increment

1 plan.

2 (i) An estimate of the impact of tax increment financing on
3 the revenues of all taxing jurisdictions in which the eligible
4 property is or is anticipated to be located.

5 (j) A legal description of the eligible property to which the
6 tax increment financing plan applies or shall apply upon
7 qualification as eligible property.

8 (k) An estimate of the number of jobs to be created as a
9 result of implementation of the tax increment financing plan.

10 (l) The proposed boundaries of a certified technology park to
11 be created under an agreement proposed to be entered into pursuant
12 to section 12a **OR OF AN AEROTROPOLIS DEVELOPMENT AREA DESIGNATED**
13 **UNDER SECTION 12C**, an identification of the real property within
14 the certified technology park **OR THE AEROTROPOLIS DEVELOPMENT AREA**
15 to be included in the tax increment financing plan for purposes of
16 determining tax increment revenues, and whether personal property
17 located in the certified technology park **OR THE AEROTROPOLIS**
18 **DEVELOPMENT AREA** is exempt from determining tax increment revenues.

19 (2) Except as provided in subsection (7), a tax increment
20 financing plan shall provide for the use of tax increment revenues
21 for public facilities for eligible property whose captured assessed
22 value produces the tax increment revenues or, to the extent the
23 eligible property is located within a business development area **OR**
24 **AN AEROTROPOLIS DEVELOPMENT AREA**, for other eligible property
25 located in the business development area **OR THE AEROTROPOLIS**
26 **DEVELOPMENT AREA**. Public facilities for eligible property include
27 the development or improvement of access to and around, or within

1 the eligible property, of road facilities reasonably required by
2 traffic flow to be generated by the eligible property, and the
3 development or improvement of public facilities that are necessary
4 to service the eligible property, whether or not located on that
5 eligible property. If the eligible property identified in the tax
6 increment financing plan is property to which section ~~2(p)(iv)~~
7 **2(R)(iv)** applies, the tax increment financing plan shall not provide
8 for the use of tax increment revenues for public facilities other
9 than those described in the development plan as of April 1, 1991.
10 Whether or not provided in the tax increment financing plan, if the
11 eligible property identified in the tax increment financing plan is
12 property to which section ~~2(p)(iv)~~**2(R)(iv)** applies, then to the
13 extent that captured tax increment revenues are utilized for the
14 costs of cleanup of identified soil and groundwater contamination,
15 the captured tax increment revenues shall be first credited against
16 the shares of responsibility for the total costs of cleanup of
17 uncollectible parties who are responsible for the identified soil
18 and groundwater contamination pursuant to law, and then shall be
19 credited on a pro rata basis against the shares of responsibility
20 for the total costs of cleanup of other parties who are responsible
21 for the identified soil and groundwater contamination pursuant to
22 law.

23 (3) The percentage of taxes levied for school operating
24 purposes that is captured and used by the tax increment financing
25 plan and the tax increment financing plans under 1975 PA 197, MCL
26 125.1651 to 125.1681, the tax increment finance authority act, 1980
27 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment

1 financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall not be
 2 greater than the percentage capture and use of taxes levied by a
 3 municipality or county for operating purposes under the tax
 4 increment financing plan and tax increment financing plans under
 5 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance
 6 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the
 7 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
 8 to 125.2672. For purposes of the previous sentence, taxes levied by
 9 a county for operating purposes include only millage allocated for
 10 county or charter county purposes under the property tax limitation
 11 act, 1933 PA 62, MCL 211.201 to 211.217a.

12 (4) Except as otherwise provided by this subsection, approval
 13 of the tax increment financing plan shall be in accordance with the
 14 notice, hearing, disclosure, and approval provisions of sections 16
 15 and 17. If the development plan is part of the tax increment
 16 financing plan, only 1 hearing and approval procedure is required
 17 for the 2 plans together. For a plan submitted by an authority
 18 established by 2 or more municipalities under sections 3(2) and
 19 **4(7) OR BY AN AUTHORITY ESTABLISHED BY AN AEROTROPOLIS DEVELOPMENT**
 20 **CORPORATION UNDER SECTIONS 3(3) AND 4(8)**, the notice required by
 21 section 16 may be published jointly by the municipalities in which
 22 the authority district is located **OR BY THE AEROTROPOLIS**
 23 **DEVELOPMENT CORPORATION. ~~The~~ FOR A PLAN SUBMITTED BY AN AUTHORITY**
 24 **EXERCISING ITS POWERS UNDER SECTIONS 3(2) AND 4(7), THE** plan shall
 25 not be considered approved unless each governing body in which the
 26 authority district is located makes the determinations required by
 27 section 17 and approves the same plan, including the same

1 modifications, if any, made to the plan by any other governing
2 body. **A PLAN SUBMITTED BY AN AUTHORITY EXERCISING ITS POWERS UNDER**
3 **SECTIONS 3(3) AND 4(8) SHALL NOT BE REQUIRED TO BE APPROVED BY THE**
4 **GOVERNING BODY OF EACH MUNICIPALITY IN WHICH THE AUTHORITY DISTRICT**
5 **IS LOCATED.**

6 (5) Before the public hearing on the tax increment financing
7 plan, the governing body shall provide a reasonable opportunity to
8 the taxing jurisdictions levying taxes subject to capture to
9 express their views and recommendations regarding the tax increment
10 financing plan. The authority shall fully inform the taxing
11 jurisdictions about the fiscal and economic implications of the
12 proposed tax increment financing plan. The taxing jurisdictions may
13 present their recommendations at the public hearing on the tax
14 increment financing plan. The authority may enter into agreements
15 with the taxing jurisdictions and the governing body of the
16 municipality in which the authority district is located to share a
17 portion of the captured assessed value of the district or to
18 distribute tax increment revenues among taxing jurisdictions. Upon
19 adoption of the plan, the collection and transmission of the amount
20 of tax increment revenues, as specified in this act, shall be
21 binding on all taxing units levying ad valorem property taxes or
22 specific local taxes against property located in the authority
23 district.

24 (6) Property qualified as a public facility under section
25 ~~2(aa)(ii)~~ **2(CC)(ii)** that is acquired by an authority may be sold,
26 conveyed, or otherwise disposed to any person, public or private,
27 for fair market value or reasonable monetary consideration

1 established by the authority with the concurrence of the Michigan
2 economic development corporation and the municipality in which the
3 eligible property is located based on a fair market value appraisal
4 from a fee appraiser only if the property is sold for fair market
5 value. Unless the property acquired by an authority was located
6 within a certified business park, ~~or~~a certified technology park,
7 **OR AN AEROTROPOLIS DEVELOPMENT AREA** at the time of disposition, an
8 authority shall remit all monetary proceeds received from the sale
9 or disposition of property that qualified as a public facility
10 under section ~~2(aa)(ii)~~**2(CC)(ii)** and was purchased with tax
11 increment revenues to the taxing jurisdictions. Proceeds
12 distributed to taxing jurisdictions shall be remitted in proportion
13 to the amount of tax increment revenues attributable to each taxing
14 jurisdiction in the year the property was acquired. If the property
15 was acquired in part with funds other than tax increment revenues,
16 only that portion of the monetary proceeds received upon
17 disposition that represent the proportion of the cost of
18 acquisition paid with tax increment revenues is required to be
19 remitted to taxing jurisdictions. If the property is located within
20 a certified business park, ~~or~~**A** certified technology park, **OR AN**
21 **AEROTROPOLIS DEVELOPMENT AREA** at the time of disposition, the
22 monetary proceeds received from the sale or disposition of that
23 property may be retained by the authority for any purpose necessary
24 to further the development program for the certified business park,
25 ~~or~~certified technology park, **OR AEROTROPOLIS DEVELOPMENT AREA** in
26 accordance with the tax increment financing plan.

27 (7) The tax increment financing plan may provide for the use

1 of tax increment revenues from a certified technology park for
2 public facilities for any eligible property located in the
3 certified technology park. **THE TAX INCREMENT FINANCING PLAN MAY**
4 **PROVIDE FOR THE USE OF TAX INCREMENT REVENUES FROM AN AEROTROPOLIS**
5 **DEVELOPMENT AREA FOR PUBLIC FACILITIES WITHIN OR WITHOUT THE**
6 **AEROTROPOLIS DEVELOPMENT AREA FROM WHICH THE TAX INCREMENT REVENUES**
7 **ARE DERIVED, PROVIDED THAT THE TAX INCREMENT REVENUES SHALL BE USED**
8 **FOR PUBLIC FACILITIES WITHIN THE MUNICIPALITY WHOSE LEVY HAS**
9 **CONTRIBUTED TO THE TAX INCREMENT REVENUES EXCEPT AS OTHERWISE**
10 **PROVIDED IN THE INTERGOVERNMENTAL AGREEMENT OR ARTICLES OF**
11 **INCORPORATION CREATING THE AEROTROPOLIS DEVELOPMENT CORPORATION.**

12 (8) If title to property qualified as a public facility under
13 section ~~2(aa)(ii)~~ **2(CC)(ii)** and acquired by an authority with tax
14 increment revenues is sold, conveyed, or otherwise disposed of
15 pursuant to subsection (6) for less than fair market value, the
16 authority shall enter into an agreement relating to the use of the
17 property with the person to whom the property is sold, conveyed, or
18 disposed of, which agreement shall include a penalty provision
19 addressing repayment to the authority if any interest in the
20 property is sold, conveyed, or otherwise disposed of by the person
21 within 12 years after the person received title to the property
22 from the authority. This subsection shall not require enforcement
23 of a penalty provision for a conveyance incident to a merger,
24 acquisition, reorganization, sale-lease back transaction, employee
25 stock ownership plan, or other change in corporate or business form
26 or structure.

27 (9) The penalty provision described in subsection (8) shall

1 not be less than an amount equal to the difference between the fair
2 market value of the property when originally sold, conveyed, or
3 otherwise disposed of and the actual consideration paid by the
4 person to whom the property was originally sold, conveyed, or
5 otherwise disposed of.

6 Enacting section 1. This amendatory act does not take effect
7 unless all of the following bills of the 94th Legislature are
8 enacted into law:

9 (a) Senate Bill No. ____ or House Bill No. 6502 (request no.
10 07377'08 **).

11 (b) Senate Bill No. ____ or House Bill No. 6503 (request no.
12 07781'08 **).

13 (c) Senate Bill No. ____ or House Bill No. 6504 (request no.
14 07806'08 **).

15 (d) Senate Bill No. ____ or House Bill No. 6505 (request no.
16 07807'08 **).

17 (e) Senate Bill No. ____ or House Bill No. 6506 (request no.
18 08280'08 *).

19 (f) Senate Bill No. ____ or House Bill No. 6507 (request no.
20 08281'08 *).

21 (g) Senate Bill No. ____ or House Bill No. 6508 (request no.
22 08282'08 *).

23 (h) Senate Bill No. ____ or House Bill No. 6509 (request no.
24 08283'08 *).

25 (i) Senate Bill No. ____ or House Bill No. 6511 (request no.
26 08285'08 *).