

HOUSE BILL No. 5553

October 27, 2009, Introduced by Reps. Melton and Mayes and referred to the Committee on Banking and Financial Services.

A bill to amend 1980 PA 450, entitled "The tax increment finance authority act," by amending section 1 (MCL 125.1801), as amended by 2008 PA 453.

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 211.155.

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 Eligible obligation also includes an ongoing management contract or
14 contract for professional services or development services that was
15 entered into by the authority or a municipality on behalf of the
16 authority in 1991, and related similar written agreements executed
17 before 1984, if the 1991 agreement both provides for automatic
18 annual renewal and incorporates by reference the prior related
19 agreements; however, receipt by an authority of tax increment
20 revenues authorized under subdivision (aa) (ii) in order to pay costs
21 arising under those contracts shall be limited to:

22 (i) For taxes levied before July 1, 2005, the amount permitted
23 to be received by an authority for an eligible obligation as
24 provided in this act.

25 (ii) For taxes levied after June 30, 2005 and before July 1,
26 2006, \$3,000,000.00.

27 (iii) For taxes levied after June 30, 2006 and before July 1,

1 2007, \$3,000,000.00.

2 (iv) For taxes levied after June 30, 2007 and before July 1,
3 2008, \$3,000,000.00.

4 (v) For taxes levied after June 30, 2008 and before July 1,
5 2009, \$3,000,000.00.

6 (vi) For taxes levied after June 30, 2009 and before July 1,
7 2010, \$3,000,000.00.

8 (vii) For taxes levied after June 30, 2010 and before July 1,
9 2011, \$2,650,000.00.

10 (viii) For taxes levied after June 30, 2011 and before July 1,
11 2012, \$2,400,000.00.

12 (ix) For taxes levied after June 30, 2012 and before July 1,
13 2013, \$2,125,000.00.

14 (x) For taxes levied after June 30, 2013 and before July 1,
15 2014, \$1,500,000.00.

16 (xi) For taxes levied after June 30, 2014 and before July 1,
17 2015, \$1,150,000.00.

18 (xii) For taxes levied after June 30, 2015, \$0.00.

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

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

22 (p) "Initial assessed value" means the assessed value, as
23 equalized, of all the taxable property within the boundaries of the
24 development area at the time the resolution establishing the tax
25 increment financing plan is approved as shown by the most recent
26 assessment roll of the municipality for which equalization has been
27 completed at the time the resolution is adopted. Property exempt

1 from taxation at the time of the determination of the initial
2 assessed value shall be included as zero. For the purpose of
3 determining initial assessed value, property for which a specific
4 local tax is paid in lieu of a property tax shall not be considered
5 property that is exempt from taxation. The initial assessed value
6 of property for which a specific tax was paid in lieu of a property
7 tax shall be determined as provided in subdivision (w).

8 (q) "Municipality" means a city.

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

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

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

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

26 (iv) A requirement to pay or reimburse a person for the cost of
27 insurance for, or to maintain, property subject to a lease, land

1 contract, purchase agreement, or other agreement.

2 (v) A letter of credit, paying agent, transfer agent, bond
3 registrar, or trustee fee associated with a contract, agreement,
4 bond, or note.

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

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

24 (t) "Other protected obligation" means:

25 (i) A qualified refunding obligation issued to refund an
26 obligation described in subparagraph (ii) or (iii), an obligation that
27 is not a qualified refunding obligation that is issued to refund an

1 eligible obligation, or a qualified refunding obligation issued to
2 refund an obligation described in this subparagraph.

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

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

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

24 (v) An ongoing management or professional services contract
25 with the governing body of a county which was entered into before
26 March 1, 1994 and which was preceded by a series of limited term
27 management or professional services contracts with the governing

1 body of the county, the last of which was entered into before
2 August 19, 1993.

3 (vi) An obligation issued or incurred by a municipality under a
4 contract executed on December 19, 1994 as subsequently amended
5 between the municipality and the authority to implement a project
6 described in a tax increment finance plan approved by the
7 municipality under this act before August 19, 1993 for which a
8 contract for final design was entered into by the municipality
9 before March 1, 1994 provided that final payment by the
10 municipality is made on or before December 31, 2001.

11 (vii) An obligation issued or incurred by an authority or by a
12 municipality on behalf of an authority that meets all of the
13 following qualifications:

14 (A) The obligation is issued or incurred to finance a project
15 described in a tax increment financing plan approved before August
16 19, 1993 by a municipality in accordance with this act.

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

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

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

25 (viii) An obligation incurred by an authority that meets both of
26 the following qualifications:

27 (A) The obligation is a contract of lease originally executed

1 on December 20, 1994 between the municipality and the authority to
2 partially implement the authority's development plan and tax
3 increment financing plan.

4 (B) The obligation qualifies as an obligation under
5 subparagraph (ii). The obligation described in this subparagraph may
6 be amended to extend cash rental payments for a period not to
7 exceed 30 years through the year 2039. The duration of the
8 development plan and tax increment financing plan described in this
9 subparagraph is extended to 1 year after the final date that the
10 extended cash rental payments are due.

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

12 (i) A street, plaza, or pedestrian mall, and any improvements
13 to a street, plaza, boulevard, alley, or pedestrian mall, including
14 street furniture and beautification, park, parking facility,
15 recreation facility, playground, school, library, public
16 institution or administration building, right of way, structure,
17 waterway, bridge, lake, pond, canal, utility line or pipeline, and
18 other similar facilities and necessary easements of these
19 facilities designed and dedicated to use by the public generally or
20 used by a public agency. As used in this subparagraph, public
21 institution or administration building includes, but is not limited
22 to, a police station, fire station, court building, or other public
23 safety facility.

24 (ii) The acquisition and disposal of real and personal property
25 or interests in real and personal property, demolition of
26 structures, site preparation, relocation costs, building
27 rehabilitation, and all associated administrative costs, including,

1 but not limited to, architect's, engineer's, legal, and accounting
2 fees as contained in the resolution establishing the district's
3 development plan.

4 (iii) An improvement to a facility used by the public or a
5 public facility as those terms are defined in section 1 of 1966 PA
6 1, MCL 125.1351, which improvement is made to comply with the
7 barrier free design requirements of the state construction code
8 promulgated under the Stille-DeRossett-Hale single state
9 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

10 (v) "Qualified refunding obligation" means an obligation
11 issued or incurred by an authority or by a municipality on behalf
12 of an authority to refund an obligation if 1 of the following
13 applies:

14 (i) The refunding obligation meets both of the following:

15 (A) The net present value of the principal and interest to be
16 paid on the refunding obligation, including the cost of issuance,
17 will be less than the net present value of the principal and
18 interest to be paid on the obligation being refunded, as calculated
19 using a method approved by the department of treasury.

20 (B) The net present value of the sum of the tax increment
21 revenues described in subdivision (aa) (ii) and the distributions
22 under section 12a to repay the refunding obligation will not be
23 greater than the net present value of the sum of the tax increment
24 revenues described in subdivision (aa) (ii) and the distributions
25 under section 12a to repay the obligation being refunded, as
26 calculated using a method approved by the department of treasury.

27 (ii) The refunding obligation is a ~~tax increment refunding bond~~

House Bill No. 5553 as amended March 16, 2010

1 issued to REFUND ANOTHER PROTECTED OBLIGATION OR AN ELIGIBLE

2 OBLIGATION AND THAT REFUNDING OBLIGATION IS ISSUED BEFORE DECEMBER

3 31, 2012. [A REFUNDING OBLIGATION ISSUED UNDER THIS SUBPARAGRAPH IS A
4 QUALIFIED REFUNDING OBLIGATION ONLY TO THE EXTENT OF THE PRINCIPAL AND
5 INTEREST OUTSTANDING ON THE OBLIGATION BEING REFUNDED AT THE TIME THE
6 REFUNDING OBLIGATION IS ISSUED.] refund a refunding bond that is an other
7 protected

8 obligation issued as a capital appreciation bond delivered to the

9 Michigan municipal bond authority on December 21, 1994, and the

10 authority, by resolution of its board, authorized issuance of the

11 refunding obligation before January 1, 2011 with a final maturity

12 not later than 2039. The municipality by majority vote of the

13 members of its governing body may pledge its full faith and credit

14 for the payment of the principal of and interest on the refunding

15 obligation. A refunding obligation issued under this subparagraph

16 is not subject to the requirements of section 305(2), (3), (5), or

17 (6), 501, or 503 of the revised municipal finance act, 2001 PA 34,

18 MCL 141.2305, 141.2501, and 141.2503. The duration of the

19 development plan and the tax increment financing plan relating to

20 the refunding obligations described in this subparagraph is

21 extended to 1 year after the final date of maturity of the

22 refunding obligation.

23 (w) "Specific local tax" means a tax levied under 1974 PA 198,

24 MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA

25 255, MCL 207.651 to 207.668, the technology park development act,

26 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181

27 to 211.182. The initial assessed value or current assessed value of

property subject to a specific local tax shall be the quotient of

the specific local tax paid divided by the ad valorem millage rate.

However, after 1993, the state tax commission shall prescribe the

method for calculating the initial assessed value and current

1 assessed value of property for which a specific local tax was paid
2 in lieu of a property tax.

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

5 (y) "Tax increment district" or "district" means that area to
6 which the tax increment finance plan pertains.

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

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

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

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

1 advances, eligible obligations, and other protected obligations.

2 (iii) Tax increment revenues do not include any of the
3 following:

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

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

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

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

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

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