

**SUBSTITUTE FOR
HOUSE BILL NO. 5554**

A bill to amend 1986 PA 281, entitled
"The local development financing act,"
by amending section 2 (MCL 125.2152), as amended by 2009 PA 162.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. 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 in
4 anticipation of repayment by the authority. Evidence of the intent
5 to repay an advance may include, but is not limited to, an executed
6 agreement to repay, provisions contained in a tax increment
7 financing plan approved prior to the advance, or a resolution of
8 the authority or the municipality.

9 (b) "Alternative energy technology" means equipment, component
10 parts, materials, electronic devices, testing equipment, and

1 related systems that are specifically designed, specifically
2 fabricated, and used primarily for 1 or more of the following:

3 (i) The storage, generation, reformation, or distribution of
4 clean fuels integrated within an alternative energy system or
5 alternative energy vehicle, not including an anaerobic digester
6 energy system or a hydroelectric energy system, for use within the
7 alternative energy system or alternative energy vehicle.

8 (ii) The process of generating and putting into a usable form
9 the energy generated by an alternative energy system. Alternative
10 energy technology does not include those component parts of an
11 alternative energy system that are required regardless of the
12 energy source.

13 (iii) Research and development of an alternative energy vehicle.

14 (iv) Research, development, and manufacturing of an alternative
15 energy system.

16 (v) Research, development, and manufacturing of an anaerobic
17 digester energy system.

18 (vi) Research, development, and manufacturing of a
19 hydroelectric energy system.

20 (c) "Alternative energy technology business" means a business
21 engaged in the research, development, or manufacturing of
22 alternative energy technology.

23 (d) "Assessed value" means 1 of the following:

24 (i) For valuations made before January 1, 1995, the state
25 equalized valuation as determined under the general property tax
26 act, 1893 PA 206, MCL 211.1 to 211.155.

27 (ii) For valuations made after December 31, 1994, the taxable

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

3 (e) "Authority" means a local development finance authority
4 created pursuant to this act.

5 (f) "Authority district" means an area or areas within which
6 an authority exercises its powers.

7 (g) "Board" means the governing body of an authority.

8 (h) "Business development area" means an area designated as a
9 certified industrial park under this act prior to the effective
10 date of the amendatory act that added this subdivision, or an area
11 designated in the tax increment financing plan that meets all of
12 the following requirements:

13 (i) The area is zoned to allow its use for eligible property.

14 (ii) The area has a site plan or plat approved by the city,
15 village, or township in which the area is located.

16 (i) "Business incubator" means real and personal property that
17 meets all of the following requirements:

18 (i) Is located in a certified technology park or a certified
19 alternative energy park.

20 (ii) Is subject to an agreement under section 12a or 12c.

21 (iii) Is developed for the primary purpose of attracting 1 or
22 more owners or tenants who will engage in activities that would
23 each separately qualify the property as eligible property under
24 subdivision (s) (iii).

25 (j) "Captured assessed value" means the amount in any 1 year
26 by which the current assessed value of the eligible property
27 identified in the tax increment financing plan or, for a certified

1 technology park, the real and personal property included in the tax
2 increment financing plan, including the current assessed value of
3 property for which specific local taxes are paid in lieu of
4 property taxes as determined pursuant to subdivision (ff), exceeds
5 the initial assessed value. The state tax commission shall
6 prescribe the method for calculating captured assessed value.

7 (k) "Certified alternative energy park" means that portion of
8 an authority district designated by a written agreement entered
9 into pursuant to section 12c between the authority, the
10 municipality or municipalities, and the Michigan economic
11 development corporation.

12 (l) "Certified business park" means a business development area
13 that has been designated by the Michigan economic development
14 corporation as meeting criteria established by the Michigan
15 economic development corporation. The criteria shall establish
16 standards for business development areas including, but not limited
17 to, use, types of building materials, landscaping, setbacks,
18 parking, storage areas, and management.

19 (m) "Certified technology park" means that portion of the
20 authority district designated by a written agreement entered into
21 pursuant to section 12a between the authority, the municipality,
22 and the Michigan economic development corporation.

23 (n) "Chief executive officer" means the mayor or city manager
24 of a city, the president of a village, or, for other local units of
25 government or school districts, the person charged by law with the
26 supervision of the functions of the local unit of government or
27 school district.

1 (o) "Development plan" means that information and those
2 requirements for a development set forth in section 15.

3 (p) "Development program" means the implementation of a
4 development plan.

5 (q) "Eligible advance" means an advance made before August 19,
6 1993.

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

14 (s) "Eligible property" means land improvements, buildings,
15 structures, and other real property, and machinery, equipment,
16 furniture, and fixtures, or any part or accessory thereof whether
17 completed or in the process of construction comprising an
18 integrated whole, located within an authority district, of which
19 the primary purpose and use is or will be 1 of the following:

20 (i) The manufacture of goods or materials or the processing of
21 goods or materials by physical or chemical change.

22 (ii) Agricultural processing.

23 (iii) A high technology activity.

24 (iv) The production of energy by the processing of goods or
25 materials by physical or chemical change by a small power
26 production facility as defined by the federal energy regulatory
27 commission pursuant to the public utility regulatory policies act

1 of 1978, Public Law 95-617, which facility is fueled primarily by
2 biomass or wood waste. This act does not affect a person's rights
3 or liabilities under law with respect to groundwater contamination
4 described in this subparagraph. This subparagraph applies only if
5 all of the following requirements are met:

6 (A) Tax increment revenues captured from the eligible property
7 will be used to finance, or will be pledged for debt service on tax
8 increment bonds used to finance, a public facility in or near the
9 authority district designed to reduce, eliminate, or prevent the
10 spread of identified soil and groundwater contamination, pursuant
11 to law.

12 (B) The board of the authority exercising powers within the
13 authority district where the eligible property is located adopted
14 an initial tax increment financing plan between January 1, 1991 and
15 May 1, 1991.

16 (C) The municipality that created the authority establishes a
17 special assessment district whereby not less than 50% of the
18 operating expenses of the public facility described in this
19 subparagraph will be paid for by special assessments. Not less than
20 50% of the amount specially assessed against all parcels in the
21 special assessment district shall be assessed against parcels owned
22 by parties potentially responsible for the identified groundwater
23 contamination pursuant to law.

24 (v) A business incubator.

25 (vi) An alternative energy technology business.

26 (t) "Fiscal year" means the fiscal year of the authority.

27 (u) "Governing body" means the elected body having legislative

1 powers of a municipality creating an authority under this act.

2 (v) "High technology activity" means that term as defined in
3 section 3 of the Michigan economic growth authority act, 1995 PA
4 24, MCL 207.803.

5 (w) "Initial assessed value" means the assessed value of the
6 eligible property identified in the tax increment financing plan
7 or, for a certified technology park, the assessed value of any real
8 and personal property included in the tax increment financing plan,
9 at the time the resolution establishing the tax increment financing
10 plan is approved as shown by the most recent assessment roll for
11 which equalization has been completed at the time the resolution is
12 adopted or, for property that becomes eligible property in other
13 than a certified technology park after the date the plan is
14 approved, at the time the property becomes eligible property.

15 Property exempt from taxation at the time of the determination of
16 the initial assessed value shall be included as zero. Property for
17 which a specific local tax is paid in lieu of property tax shall
18 not be considered exempt from taxation. The initial assessed value
19 of property for which a specific local tax was paid in lieu of
20 property tax shall be determined as provided in subdivision (ff).

21 (x) "Michigan economic development corporation" means the
22 public body corporate created under section 28 of article VII of
23 the state constitution of 1963 and the urban cooperation act of
24 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual
25 interlocal agreement effective April 5, 1999 between local
26 participating economic development corporations formed under the
27 economic development corporations act, 1974 PA 338, MCL 125.1601 to

1 125.1636, and the Michigan strategic fund. If the Michigan economic
2 development corporation is unable for any reason to perform its
3 duties under this act, those duties may be exercised by the
4 Michigan strategic fund.

5 (y) "Michigan strategic fund" means the Michigan strategic
6 fund as described in the Michigan strategic fund act, 1984 PA 270,
7 MCL 125.2001 to 125.2094.

8 (z) "Municipality" means a city, village, or urban township.
9 However, for purposes of creating and operating a certified
10 alternative energy park, municipality includes townships that are
11 not urban townships.

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

21 (i) A requirement to pay proceeds derived from ad valorem
22 property taxes or taxes levied in lieu of ad valorem property
23 taxes.

24 (ii) A management contract or a contract for professional
25 services.

26 (iii) A payment required on a contract, agreement, bond, or note
27 if the requirement to make or assume the payment arose before

1 August 19, 1993.

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

5 (v) A letter of credit, paying agent, transfer agent, bond
6 registrar, or trustee fee associated with a contract, agreement,
7 bond, or note.

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

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

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

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

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

27 (cc) "Other protected obligation" means:

1 (i) A qualified refunding obligation issued to refund an
2 obligation described in subparagraph (ii) or (iii), an obligation that
3 is not a qualified refunding obligation that is issued to refund an
4 eligible obligation, or a qualified refunding obligation issued to
5 refund an obligation described in this 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 August 19, 1993, for which a contract for
11 final design is entered into by the municipality or authority
12 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 August
16 19, 1993, for a project described in a tax increment financing plan
17 approved in accordance with this act before August 19, 1993, and
18 undertaken and installed by that party in accordance with the
19 development agreement.

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

26 (dd) "Public facility" means 1 or more of the following:

27 (i) A street, road, bridge, storm water or sanitary sewer,

1 sewage treatment facility, facility designed to reduce, eliminate,
2 or prevent the spread of identified soil or groundwater
3 contamination, drainage system, retention basin, pretreatment
4 facility, waterway, waterline, water storage facility, rail line,
5 electric, gas, telephone or other communications, or any other type
6 of utility line or pipeline, or other similar or related structure
7 or improvement, together with necessary easements for the structure
8 or improvement. Except for rail lines, utility lines, or pipelines,
9 the structures or improvements described in this subparagraph shall
10 be either owned or used by a public agency, functionally connected
11 to similar or supporting facilities owned or used by a public
12 agency, or designed and dedicated to use by, for the benefit of, or
13 for the protection of the health, welfare, or safety of the public
14 generally, whether or not used by a single business entity. Any
15 road, street, or bridge shall be continuously open to public
16 access. A public facility shall be located on public property or in
17 a public, utility, or transportation easement or right-of-way.

18 (ii) The acquisition and disposal of land that is proposed or
19 intended to be used in the development of eligible property or an
20 interest in that land, demolition of structures, site preparation,
21 and relocation costs.

22 (iii) All administrative and real and personal property
23 acquisition and disposal costs related to a public facility
24 described in subparagraphs (i) and (iv), including, but not limited
25 to, architect's, engineer's, legal, and accounting fees as
26 permitted by the district's development plan.

27 (iv) An improvement to a facility used by the public or a

1 public facility as those terms are defined in section 1 of 1966 PA
2 1, MCL 125.1351, which improvement is made to comply with the
3 barrier free design requirements of the state construction code
4 promulgated under the Stille-DeRossett-Hale single state
5 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

6 (v) All of the following costs approved by the Michigan
7 economic development corporation:

8 (A) Operational costs and the costs related to the
9 acquisition, improvement, preparation, demolition, disposal,
10 construction, reconstruction, remediation, rehabilitation,
11 restoration, preservation, maintenance, repair, furnishing, and
12 equipping of land and other assets that are or may become eligible
13 for depreciation under the internal revenue code of 1986 for a
14 business incubator located in a certified technology park or
15 certified alternative energy park.

16 (B) Costs related to the acquisition, improvement,
17 preparation, demolition, disposal, construction, reconstruction,
18 remediation, rehabilitation, restoration, preservation,
19 maintenance, repair, furnishing, and equipping of land and other
20 assets that, if privately owned, would be eligible for depreciation
21 under the internal revenue code of 1986 for laboratory facilities,
22 research and development facilities, conference facilities,
23 teleconference facilities, testing, training facilities, and
24 quality control facilities that are or that support eligible
25 property under subdivision (s) (iii), that are owned by a public
26 entity, and that are located within a certified technology park.

27 (C) Costs related to the acquisition, improvement,

1 preparation, demolition, disposal, construction, reconstruction,
 2 remediation, rehabilitation, restoration, preservation,
 3 maintenance, repair, furnishing, and equipping of land and other
 4 assets that, if privately owned, would be eligible for depreciation
 5 under the internal revenue code of 1986 for facilities that are or
 6 that will support eligible property under subdivision (s) (vi), that
 7 have been or will be owned by a public entity at the time such
 8 costs are incurred, that are located within a certified alternative
 9 energy park, and that have been or will be conveyed, by gift or
 10 sale, by such public entity to an alternative energy technology
 11 business.

12 (vi) Operating and planning costs included in a plan pursuant
 13 to section 12(1)(f), including costs of marketing property within
 14 the district and attracting development of eligible property within
 15 the district.

16 (ee) "Qualified refunding obligation" means an obligation
 17 issued or incurred by an authority or by a municipality on behalf
 18 of an authority to refund an obligation if ~~the~~ **1 OR MORE OF THE**
 19 **FOLLOWING APPLY:**

20 (i) **THE** refunding obligation meets both of the following:

21 (A) ~~(i)~~—The net present value of the principal and interest to
 22 be paid on the refunding obligation, including the cost of
 23 issuance, will be less than the net present value of the principal
 24 and interest to be paid on the obligation being refunded, as
 25 calculated using a method approved by the department of treasury.

26 (B) ~~(ii)~~—The net present value of the sum of the tax increment
 27 revenues described in subdivision (hh) (ii) and the distributions

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

(ii) THE REFUNDING OBLIGATION IS ISSUED TO REFUND AN OTHER PROTECTED OBLIGATION OR AN ELIGIBLE OBLIGATION AND THAT REFUNDING OBLIGATION IS ISSUED BEFORE DECEMBER 31, 2012. [A REFUNDING OBLIGATION ISSUED UNDER THIS SUBPARAGRAPH IS A QUALIFIED REFUNDING OBLIGATION ONLY TO THE EXTENT OF THE PRINCIPAL AND INTEREST OUTSTANDING ON THE OBLIGATION BEING REFUNDED AT THE TIME THE REFUNDING OBLIGATION IS ISSUED.]

(ff) "Specific local taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA 189, MCL 211.181 to 211.182, and the technology park development act, 1984 PA 385, MCL 207.701 to 207.718. The initial assessed value or current assessed value of property subject to a specific local tax is 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 assessed value of property for which a specific local tax was paid in lieu of a property tax.

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

(hh) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of eligible property within the district

1 or, for purposes of a certified technology park or a certified
2 alternative energy park, real or personal property that is located
3 within the certified technology park and included within the tax
4 increment financing plan, subject to the following requirements:

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

12 (ii) Tax increment revenues include ad valorem property taxes
13 and specific local taxes attributable to the application of the
14 levy of the state pursuant to the state education tax act, 1993 PA
15 331, MCL 211.901 to 211.906, and local or intermediate school
16 districts upon the captured assessed value of real and personal
17 property in the development area in an amount equal to the amount
18 necessary, without regard to subparagraph (i), for the following
19 purposes:

20 (A) To repay eligible advances, eligible obligations, and
21 other protected obligations.

22 (B) To fund or to repay an advance or obligation issued by or
23 on behalf of an authority to fund the cost of public facilities
24 related to or for the benefit of eligible property located within a
25 certified technology park or a certified alternative energy park to
26 the extent the public facilities have been included in an agreement
27 under section 12a(3), not to exceed 50%, as determined by the state

1 treasurer, of the amounts levied by the state pursuant to the state
2 education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local
3 and intermediate school districts for a period not to exceed 15
4 years, as determined by the state treasurer, if the state treasurer
5 determines that the capture under this subparagraph is necessary to
6 reduce unemployment, promote economic growth, and increase capital
7 investment in the municipality.

8 (iii) Tax increment revenues do not include any of the
9 following:

10 (A) Ad valorem property taxes or specific local taxes that are
11 excluded from and not made part of the tax increment financing
12 plan.

13 (B) Ad valorem property taxes and specific local taxes
14 attributable to ad valorem property taxes excluded by the tax
15 increment financing plan of the authority from the determination of
16 the amount of tax increment revenues to be transmitted to the
17 authority.

18 (C) Ad valorem property taxes exempted from capture under
19 section 4(3) or specific local taxes attributable to such ad
20 valorem property taxes.

21 (D) Ad valorem property taxes specifically levied for the
22 payment of principal and interest of obligations approved by the
23 electors or obligations pledging the unlimited taxing power of the
24 local governmental unit or specific local taxes attributable to
25 such ad valorem property taxes.

26 (E) The amount of ad valorem property taxes or specific taxes
27 captured by a downtown development authority under 1975 PA 197, MCL

1 125.1651 to 125.1681, tax increment financing authority under the
2 tax increment finance authority act, 1980 PA 450, MCL 125.1801 to
3 125.1830, or brownfield redevelopment authority under the
4 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
5 to 125.2672, if those taxes were captured by these other
6 authorities on the date that the initial assessed value of a parcel
7 of property was established under this act.

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

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

25 (B) The maximum amount of ad valorem property taxes and
26 specific local taxes considered tax increment revenues under
27 subparagraph (ii).

1 (ii) "Urban township" means a township that meets 1 or more of
2 the following:

3 (i) Meets all of the following requirements:

4 (A) Has a population of 20,000 or more, or has a population of
5 10,000 or more but is located in a county with a population of
6 400,000 or more.

7 (B) Adopted a master zoning plan before February 1, 1987.

8 (C) Provides sewer, water, and other public services to all or
9 a part of the township.

10 (ii) Meets all of the following requirements:

11 (A) Has a population of less than 20,000.

12 (B) Is located in a county with a population of 250,000 or
13 more but less than 400,000, and that county is located in a
14 metropolitan statistical area.

15 (C) Has within its boundaries a parcel of property under
16 common ownership that is 800 acres or larger and is capable of
17 being served by a railroad, and located within 3 miles of a limited
18 access highway.

19 (D) Establishes an authority before December 31, 1998.

20 (iii) Meets all of the following requirements:

21 (A) Has a population of less than 20,000.

22 (B) Has a state equalized valuation for all real and personal
23 property located in the township of more than \$200,000,000.00.

24 (C) Adopted a master zoning plan before February 1, 1987.

25 (D) Is a charter township under the charter township act, 1947
26 PA 359, MCL 42.1 to 42.34.

27 (E) Has within its boundaries a combination of parcels under

1 common ownership that is 800 acres or larger, is immediately
2 adjacent to a limited access highway, is capable of being served by
3 a railroad, and is immediately adjacent to an existing sewer line.

4 (F) Establishes an authority before March 1, 1999.

5 (iv) Meets all of the following requirements:

6 (A) Has a population of 13,000 or more.

7 (B) Is located in a county with a population of 150,000 or
8 more.

9 (C) Adopted a master zoning plan before February 1, 1987.

10 (v) Meets all of the following requirements:

11 (A) Is located in a county with a population of 1,000,000 or
12 more.

13 (B) Has a written agreement with an adjoining township to
14 develop 1 or more public facilities on contiguous property located
15 in both townships.

16 (C) Has a master plan in effect.

17 (vi) Meets all of the following requirements:

18 (A) Has a population of less than 10,000.

19 (B) Has a state equalized valuation for all real and personal
20 property located in the township of more than \$280,000,000.00.

21 (C) Adopted a master zoning plan before February 1, 1987.

22 (D) Has within its boundaries a combination of parcels under
23 common ownership that is 199 acres or larger, is located within 1
24 mile of a limited access highway, and is located within 1 mile of
25 an existing sewer line.

26 (E) Has rail service.

27 (F) Establishes an authority before May 7, 2009.

1 (vii) Has joined an authority under section 3(2) which is
2 seeking or has entered into an agreement for a certified
3 alternative energy park.