

SENATE BILL No. 1081

January 21, 2010, Introduced by Senators CLARKE, BASHAM, ALLEN, HUNTER, PAPPAGEORGE and JANSEN and referred to the Committee on Commerce and Tourism.

A bill to amend 1986 PA 281, entitled
"The local development financing act,"
by amending sections 2, 3, 4, 5, and 12 (MCL 125.2152, 125.2153,
125.2154, 125.2155, and 125.2162), section 2 as amended by 2007 PA
200, sections 3 and 12 as amended by 2000 PA 248, and section 4 as
amended by 2005 PA 15, and by adding sections 12c and 12d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 the authority or the municipality.

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

3 (i) For valuations made before January 1, 1995, the state
4 equalized valuation as determined under the general property tax
5 act, 1893 PA 206, MCL 211.1 to ~~211.157~~ **211.155**.

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

9 (c) "Authority" means a local development finance authority
10 created pursuant to this act.

11 (d) "Authority district" means an area or areas within which
12 an authority exercises its powers.

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

14 (f) "Business development area" means an area designated as a
15 certified industrial park under this act prior to the effective
16 date of the amendatory act that added this subdivision, or an area
17 designated in the tax increment financing plan that meets all of
18 the following requirements:

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

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

22 (g) "Business incubator" means real and personal property that
23 meets all of the following requirements:

24 (i) Is located in a certified technology park.

25 (ii) Is subject to an agreement under section 12a.

26 (iii) Is developed for the primary purpose of attracting 1 or
27 more owners or tenants who will engage in activities that would

1 each separately qualify the property as eligible property under
2 subdivision (p) (iii) .

3 (h) "Captured assessed value" means the amount in any 1 year
4 by which the current assessed value of the eligible property
5 identified in the tax increment financing plan or, for a certified
6 technology park **OR A NEXT MICHIGAN DEVELOPMENT AREA**, the real and
7 personal property included in the tax increment financing plan,
8 including the current assessed value of property for which specific
9 local taxes are paid in lieu of property taxes as determined
10 pursuant to subdivision ~~(ee)~~ **(EE)**, exceeds the initial assessed
11 value. The state tax commission shall prescribe the method for
12 calculating captured assessed value. **EXCEPT AS OTHERWISE PROVIDED**
13 **IN THIS ACT, TAX ABATED PROPERTY IN A RENAISSANCE ZONE AS DEFINED**
14 **UNDER SECTION 3 OF THE MICHIGAN RENAISSANCE ZONE ACT, 1996 PA 376,**
15 **MCL 125.2683, SHALL BE EXCLUDED FROM THE CALCULATION OF CAPTURED**
16 **ASSESSED VALUE TO THE EXTENT THAT THE PROPERTY IS EXEMPT FROM AD**
17 **VALOREM PROPERTY TAXES OR SPECIFIC LOCAL TAXES.**

18 (i) "Certified business park" means a business development
19 area that has been designated by the Michigan economic development
20 corporation as meeting criteria established by the Michigan
21 economic development corporation. The criteria shall establish
22 standards for business development areas including, but not limited
23 to, use, types of building materials, landscaping, setbacks,
24 parking, storage areas, and management.

25 (j) "Certified technology park" means that portion of the
26 authority district designated by a written agreement entered into
27 pursuant to section 12a between the authority, the municipality,

1 and the Michigan economic development corporation.

2 (k) "Chief executive officer" means the mayor or city manager
3 of a city, the president of a village, or, for other local units of
4 government or school districts, the person charged by law with the
5 supervision of the functions of the local unit of government or
6 school district.

7 (l) "Development plan" means that information and those
8 requirements for a development set forth in section 15.

9 (m) "Development program" means the implementation of a
10 development plan.

11 (n) "Eligible advance" means an advance made before August 19,
12 1993.

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

20 (p) "Eligible property" means land improvements, buildings,
21 structures, and other real property, and machinery, equipment,
22 furniture, and fixtures, or any part or accessory thereof whether
23 completed or in the process of construction comprising an
24 integrated whole, located within an authority district, of which
25 the primary purpose and use is or will be 1 of the following:

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

1 (ii) Agricultural processing.

2 (iii) A high technology activity.

3 (iv) The production of energy by the processing of goods or
4 materials by physical or chemical change by a small power
5 production facility as defined by the federal energy regulatory
6 commission pursuant to the public utility regulatory policies act
7 of 1978, Public Law 95-617, which facility is fueled primarily by
8 biomass or wood waste. This act does not affect a person's rights
9 or liabilities under law with respect to groundwater contamination
10 described in this subparagraph. This subparagraph applies only if
11 all of the following requirements are met:

12 (A) Tax increment revenues captured from the eligible property
13 will be used to finance, or will be pledged for debt service on tax
14 increment bonds used to finance, a public facility in or near the
15 authority district designed to reduce, eliminate, or prevent the
16 spread of identified soil and groundwater contamination, pursuant
17 to law.

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

22 (C) The municipality that created the authority establishes a
23 special assessment district whereby not less than 50% of the
24 operating expenses of the public facility described in this
25 subparagraph will be paid for by special assessments. Not less than
26 50% of the amount specially assessed against all parcels in the
27 special assessment district shall be assessed against parcels owned

1 by parties potentially responsible for the identified groundwater
2 contamination pursuant to law.

3 (v) A business incubator.

4 (vi) **AN ELIGIBLE NEXT MICHIGAN BUSINESS, AS THAT TERM IS**
5 **DEFINED IN SECTION 3 OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY ACT,**
6 **1995 PA 24, MCL 207.803, AND OTHER BUSINESSES WITHIN A NEXT**
7 **MICHIGAN DEVELOPMENT AREA, BUT ONLY TO THE EXTENT DESIGNATED AS**
8 **ELIGIBLE PROPERTY WITHIN A DEVELOPMENT PLAN APPROVED BY A NEXT**
9 **MICHIGAN DEVELOPMENT CORPORATION.**

10 (q) "Fiscal year" means the fiscal year of the authority.

11 (r) "Governing body" means, **EXCEPT AS OTHERWISE PROVIDED IN**
12 **THIS SUBDIVISION,** the elected body having legislative powers of a
13 municipality creating an authority under this act. **FOR A NEXT**
14 **MICHIGAN DEVELOPMENT CORPORATION, GOVERNING BODY MEANS THE**
15 **EXECUTIVE COMMITTEE OF THE NEXT MICHIGAN DEVELOPMENT CORPORATION,**
16 **UNLESS OTHERWISE PROVIDED IN THE INTERLOCAL AGREEMENT OR ARTICLES**
17 **OF INCORPORATION CREATING THE NEXT MICHIGAN DEVELOPMENT CORPORATION**
18 **OR THE GOVERNING BODY OF AN ELIGIBLE URBAN ENTITY OR ITS DESIGNEE**
19 **AS PROVIDED IN THE NEXT MICHIGAN DEVELOPMENT ACT.**

20 (s) "High-technology activity" means that term as defined in
21 section 3 of the Michigan economic growth authority act, 1995 PA
22 24, MCL 207.803.

23 (t) "Initial assessed value" means the assessed value of the
24 eligible property identified in the tax increment financing plan
25 or, for a certified technology park **OR A NEXT MICHIGAN DEVELOPMENT**
26 **AREA,** the assessed value of any real and personal property included
27 in the tax increment financing plan, at the time the resolution

1 establishing the tax increment financing plan is approved as shown
2 by the most recent assessment roll for which equalization has been
3 completed at the time the resolution is adopted or, for property
4 that becomes eligible property in other than a certified technology
5 park after the date the plan is approved, at the time the property
6 becomes eligible property. Property exempt from taxation at the
7 time of the determination of the initial assessed value shall be
8 included as zero. Property for which a specific local tax is paid
9 in lieu of property tax shall not be considered exempt from
10 taxation. The initial assessed value of property for which a
11 specific local tax was paid in lieu of property tax shall be
12 determined as provided in subdivision ~~(ee)~~-(EE).

13 (u) "Michigan economic development corporation" means the
14 public body corporate created under section 28 of article VII of
15 the state constitution of 1963 and the urban cooperation act of
16 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual
17 interlocal agreement effective April 5, 1999 between local
18 participating economic development corporations formed under the
19 economic development corporations act, 1974 PA 338, MCL 125.1601 to
20 125.1636, and the Michigan strategic fund. If the Michigan economic
21 development corporation is unable for any reason to perform its
22 duties under this act, those duties may be exercised by the
23 Michigan strategic fund.

24 (v) "Michigan strategic fund" means the Michigan strategic
25 fund as described in the Michigan strategic fund act, 1984 PA 270,
26 MCL 125.2001 to 125.2094.

27 (w) "Municipality" means a city, village, or urban township.

1 (X) "NEXT MICHIGAN DEVELOPMENT AREA" MEANS A PORTION OF AN
2 AUTHORITY DISTRICT DESIGNATED BY A NEXT MICHIGAN DEVELOPMENT
3 CORPORATION UNDER SECTION 12C TO WHICH A DEVELOPMENT PLAN IS
4 APPLICABLE.

5 (Y) "NEXT MICHIGAN DEVELOPMENT CORPORATION" MEANS THAT TERM AS
6 DEFINED IN SECTION 3 OF THE NEXT MICHIGAN DEVELOPMENT ACT.

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

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

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

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

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

27 (v) A letter of credit, paying agent, transfer agent, bond

1 registrar, or trustee fee associated with a contract, agreement,
2 bond, or note.

3 **(AA)** ~~(y)~~—"On behalf of an authority", in relation to an
4 eligible advance made by a municipality or an eligible obligation
5 or other protected obligation issued or incurred by a municipality,
6 means in anticipation that an authority would transfer tax
7 increment revenues or reimburse the municipality from tax increment
8 revenues in an amount sufficient to fully make payment required by
9 the eligible advance made by a municipality, or eligible obligation
10 or other protected obligation issued or incurred by the
11 municipality, if the anticipation of the transfer or receipt of tax
12 increment revenues from the authority is pursuant to or evidenced
13 by 1 or more of the following:

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

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

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

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

22 **(BB)** ~~(z)~~—"Other protected obligation" means:

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

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

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

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

21 **(CC)** ~~(aa)~~—"Public facility" means 1 or more of the following:

22 (i) A street, road, bridge, storm water or sanitary sewer,
23 sewage treatment facility, facility designed to reduce, eliminate,
24 or prevent the spread of identified soil or groundwater
25 contamination, drainage system, retention basin, pretreatment
26 facility, waterway, waterline, water storage facility, rail line,
27 electric, gas, telephone or other communications, or any other type

1 of utility line or pipeline, or other similar or related structure
2 or improvement, together with necessary easements for the structure
3 or improvement. Except for rail lines, utility lines, or pipelines,
4 the structures or improvements described in this subparagraph shall
5 be either owned or used by a public agency, functionally connected
6 to similar or supporting facilities owned or used by a public
7 agency, or designed and dedicated to use by, for the benefit of, or
8 for the protection of the health, welfare, or safety of the public
9 generally, whether or not used by a single business entity. Any
10 road, street, or bridge shall be continuously open to public
11 access. A public facility shall be located on public property or in
12 a public, utility, or transportation easement or right-of-way.

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

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

22 (iv) An improvement to a facility used by the public or a
23 public facility as those terms are defined in section 1 of 1966 PA
24 1, MCL 125.1351, which improvement is made to comply with the
25 barrier free design requirements of the state construction code
26 promulgated under the Stille-DeRossett-Hale single state
27 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

1 (v) All of the following costs approved by the Michigan
2 economic development corporation:

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

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

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

25 (DD) ~~(bb)~~ "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 ~~(ee) (ii)~~ **(GG) (ii)** and the
9 distributions under section 11a to repay the refunding obligation
10 will not be greater than the net present value of the sum of the
11 tax increment revenues described in subdivision ~~(ee) (ii)~~ **(GG) (ii)** and
12 the distributions under section 11a to repay the obligation being
13 refunded, as calculated using a method approved by the department
14 of treasury.

15 **(EE)** ~~(ee)~~ "Specific local taxes" means a tax levied under 1974
16 PA 198, MCL 207.551 to 207.572, the obsolete property
17 rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the
18 commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668,
19 the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123,
20 1953 PA 189, MCL 211.181 to 211.182, and the technology park
21 development act, 1984 PA 385, MCL 207.701 to 207.718. The initial
22 assessed value or current assessed value of property subject to a
23 specific local tax is the quotient of the specific local tax paid
24 divided by the ad valorem millage rate. However, after 1993, the
25 state tax commission shall prescribe the method for calculating the
26 initial assessed value and current assessed value of property for
27 which a specific local tax was paid in lieu of a property tax.

1 **(FF)** ~~(dd)~~—"State fiscal year" means the annual period
2 commencing October 1 of each year.

3 **(GG)** ~~(ee)~~—"Tax increment revenues" means the amount of ad
4 valorem property taxes and specific local taxes attributable to the
5 application of the levy of all taxing jurisdictions upon the
6 captured assessed value of eligible property within the district
7 or, for purposes of a certified technology park **OR A NEXT MICHIGAN**
8 **DEVELOPMENT AREA**, real or personal property that is located within
9 the certified technology park **OR A NEXT MICHIGAN DEVELOPMENT AREA**
10 and included within the tax increment financing plan, subject to
11 the following requirements:

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

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

27 (A) To repay eligible advances, eligible obligations, and

1 other protected obligations.

2 (B) To fund or to repay an advance or obligation issued by or
3 on behalf of an authority to fund the cost of public facilities
4 related to or for the benefit of eligible property located within a
5 certified technology park to the extent the public facilities have
6 been included in an agreement under section 12a(3), not to exceed
7 50%, as determined by the state treasurer, of the amounts levied by
8 the state pursuant to the state education tax act, 1993 PA 331, MCL
9 211.901 to 211.906, and local and intermediate school districts for
10 a period not to exceed 15 years, as determined by the state
11 treasurer, if the state treasurer determines that the capture under
12 this subparagraph is necessary to reduce unemployment, promote
13 economic growth, and increase capital investment in the
14 municipality.

15 (C) TO FUND THE COST OF PUBLIC FACILITIES RELATED TO OR FOR
16 THE BENEFIT OF ELIGIBLE PROPERTY LOCATED WITHIN A NEXT MICHIGAN
17 DEVELOPMENT AREA TO THE EXTENT THAT THE PUBLIC FACILITIES HAVE BEEN
18 INCLUDED IN A DEVELOPMENT PLAN, NOT TO EXCEED 50%, AS DETERMINED BY
19 THE STATE TREASURER, OF THE AMOUNTS LEVIED BY THE STATE PURSUANT TO
20 THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906,
21 AND LOCAL AND INTERMEDIATE SCHOOL DISTRICTS FOR A PERIOD NOT TO
22 EXCEED 15 YEARS, AS DETERMINED BY THE STATE TREASURER, IF THE STATE
23 TREASURER DETERMINES THAT THE CAPTURE UNDER THIS SUB-SUBPARAGRAPH
24 IS NECESSARY TO REDUCE UNEMPLOYMENT, PROMOTE ECONOMIC GROWTH, AND
25 INCREASE CAPITAL INVESTMENT IN THE AUTHORITY DISTRICT.

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

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

4 (B) Ad valorem property taxes and specific local taxes
5 attributable to ad valorem property taxes excluded by the tax
6 increment financing plan of the authority from the determination of
7 the amount of tax increment revenues to be transmitted to the
8 authority.

9 (C) Ad valorem property taxes exempted from capture under
10 section 4(3) or specific local taxes attributable to such ad
11 valorem property taxes.

12 (D) Ad valorem property taxes specifically levied for the
13 payment of principal and interest of obligations approved by the
14 electors or obligations pledging the unlimited taxing power of the
15 local governmental unit or specific local taxes attributable to
16 such ad valorem property taxes.

17 (E) The amount of ad valorem property taxes or specific taxes
18 captured by a downtown development authority under 1975 PA 197, MCL
19 125.1651 to 125.1681, tax increment financing authority under the
20 tax increment finance authority act, 1980 PA 450, MCL 125.1801 to
21 125.1830, or brownfield redevelopment authority under the
22 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
23 to 125.2672, if those taxes were captured by these other
24 authorities on the date that the initial assessed value of a parcel
25 of property was established under this act.

26 (iv) The amount of tax increment revenues authorized to be
27 included under subparagraph (ii), and required to be transmitted to

1 the authority under section 13(1), from ad valorem property taxes
2 and specific local taxes attributable to the application of the
3 levy of the state education tax act, 1993 PA 331, MCL 211.901 to
4 211.906, or a local school district or an intermediate school
5 district upon the captured assessed value of real and personal
6 property in a development area shall be determined separately for
7 the levy by the state, each school district, and each intermediate
8 school district as the product of sub-subparagraphs (A) and (B):

9 (A) The percentage that the total ad valorem taxes and
10 specific local taxes available for distribution by law to the
11 state, local school district, or intermediate school district,
12 respectively, bears to the aggregate amount of ad valorem millage
13 taxes and specific taxes available for distribution by law to the
14 state, each local school district, and each intermediate school
15 district.

16 (B) The maximum amount of ad valorem property taxes and
17 specific local taxes considered tax increment revenues under
18 subparagraph (ii).

19 **(HH)** ~~(ff)~~—"Urban township" means a township that meets 1 or
20 more of the following:

21 (i) Meets all of the following requirements:

22 (A) Has a population of 20,000 or more, or has a population of
23 10,000 or more but is located in a county with a population of
24 400,000 or more.

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

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

1 (ii) Meets all of the following requirements:

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

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

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

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

11 (iii) Meets all of the following requirements:

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

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

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

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

18 (E) Has within its boundaries a combination of parcels under
19 common ownership that is 800 acres or larger, is immediately
20 adjacent to a limited access highway, is capable of being served by
21 a railroad, and is immediately adjacent to an existing sewer line.

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

23 (iv) Meets all of the following requirements:

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

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

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

1 (v) Meets all of the following requirements:

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

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

7 (C) Has a master plan in effect.

8 (vi) Meets all of the following requirements:

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

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

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

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

17 (E) Has rail service.

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

19 Sec. 3. (1) Except as otherwise provided by subsection (2), a
20 municipality may establish not more than 1 authority under the
21 provisions of this act. An authority established under this
22 subsection shall exercise its powers in all authority districts.

23 (2) In addition to an authority established under subsection
24 (1), a municipality may join with 1 or more other municipality
25 located within the same county to establish an authority under this
26 act. An authority created under this subsection may only exercise
27 its powers in a certified technology park designated in an

1 agreement made under section 12a. A municipality shall not
2 establish more than 1 authority under this subsection.

3 (3) A NEXT MICHIGAN DEVELOPMENT CORPORATION MAY ESTABLISH NOT
4 MORE THAN 1 AUTHORITY UNDER THE PROVISIONS OF THIS ACT. AN
5 AUTHORITY ESTABLISHED UNDER THIS SUBSECTION SHALL EXERCISE ITS
6 POWERS WITHIN ITS AUTHORITY DISTRICT AND IN ALL NEXT MICHIGAN
7 DEVELOPMENT AREAS. THE AUTHORITY DISTRICT IN WHICH THE AUTHORITY
8 MAY EXERCISE ITS POWERS SHALL INCLUDE ALL OR PART OF THE TERRITORY
9 OF A NEXT MICHIGAN DEVELOPMENT CORPORATION, AS DETERMINED BY THE
10 GOVERNING BODY OF THE NEXT MICHIGAN DEVELOPMENT CORPORATION.

11 (4) ~~(3)~~—The authority shall be a public body corporate which
12 may sue and be sued in any court of this state. The authority
13 possesses all the powers necessary to carry out the purpose of its
14 incorporation. The enumeration of a power in this act shall not be
15 construed as a limitation upon the general powers of the authority.
16 The powers granted in this act to an authority may be exercised
17 notwithstanding that bonds are not issued by the authority.

18 Sec. 4. (1) The governing body of a municipality may declare
19 by resolution adopted by a majority of its members elected and
20 serving its intention to create and provide for the operation of an
21 authority.

22 (2) In the resolution of intent, the governing body proposing
23 to create the authority shall set a date for holding a public
24 hearing on the adoption of a proposed resolution creating the
25 authority and designating the boundaries of the authority district
26 or districts. Notice of the public hearing shall be published twice
27 in a newspaper of general circulation in the municipality, not less

1 than 20 nor more than 40 days before the date of the hearing. ~~Not~~
2 **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8), NOT** less than 20
3 days before the hearing, the governing body proposing to create the
4 authority shall also mail notice of the hearing to the property
5 taxpayers of record in a proposed authority district and, for a
6 public hearing to be held after February 15, 1994, to the governing
7 body of each taxing jurisdiction levying taxes that would be
8 subject to capture if the authority is established and a tax
9 increment financing plan is approved. Beginning June 1, 2005, the
10 notice of hearing within the time frame described in this
11 subsection shall be mailed by certified mail to the governing body
12 of each taxing jurisdiction levying taxes that would be subject to
13 capture if the authority is established and a tax increment
14 financing plan is approved. Failure of a property taxpayer to
15 receive the notice shall not invalidate these proceedings. The
16 notice shall state the date, time, and place of the hearing, and
17 shall describe the boundaries of the proposed authority district or
18 districts. At that hearing, a resident, taxpayer, or property owner
19 from a taxing jurisdiction in which the proposed district is
20 located or an official from a taxing jurisdiction with millage that
21 would be subject to capture has the right to be heard in regard to
22 the establishment of the authority and the boundaries of that
23 proposed authority district. The governing body of the municipality
24 in which a proposed district is to be located shall not incorporate
25 land into an authority district not included in the description
26 contained in the notice of public hearing, but it may eliminate
27 lands described in the notice of public hearing from an authority

1 district in the final determination of the boundaries.

2 (3) ~~Not~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8), NOT**
3 more than 60 days after a public hearing held after February 15,
4 1994, the governing body of a taxing jurisdiction with millage that
5 would otherwise be subject to capture may exempt its taxes from
6 capture by adopting a resolution to that effect and filing a copy
7 with the clerk of the municipality proposing to create the
8 authority. However, a resolution by a governing body of a taxing
9 jurisdiction to exempt its taxes from capture is not effective for
10 the capture of taxes that are used for a certified technology park.
11 The resolution takes effect when filed with that clerk and remains
12 effective until a copy of a resolution rescinding that resolution
13 is filed with that clerk.

14 (4) ~~Not~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8), NOT**
15 less than 60 days after the public hearing, if the governing body
16 creating the authority intends to proceed with the establishment of
17 the authority, it shall adopt, by majority vote of its members
18 elected and serving, a resolution establishing the authority and
19 designating the boundaries of the authority district or districts
20 within which the authority shall exercise its powers. The adoption
21 of the resolution is subject to any applicable statutory or charter
22 provisions with respect to the approval or disapproval of
23 resolutions by the chief executive officer of the municipality and
24 the adoption of a resolution over his or her veto. This resolution
25 shall be filed with the secretary of state promptly after its
26 adoption and shall be published at least once in a newspaper of
27 general circulation in the municipality.

1 (5) The governing body may alter or amend the boundaries of an
2 authority district to include or exclude lands from that authority
3 district or create new authority districts pursuant to the same
4 requirements prescribed for adopting the resolution creating the
5 authority.

6 (6) The validity of the proceedings establishing an authority
7 shall be conclusive unless contested in a court of competent
8 jurisdiction within 60 days after the last of the following takes
9 place:

10 (a) Publication of the resolution creating the authority as
11 adopted.

12 (b) Filing of the resolution creating the authority with the
13 secretary of state.

14 (7) Except as otherwise provided by this subsection, if 2 or
15 more municipalities desire to establish an authority under section
16 3(2), each municipality in which the authority district will be
17 located shall comply with the procedures prescribed by this act.
18 The notice required by subsection (2) may be published jointly by
19 the municipalities establishing the authority. The resolutions
20 establishing the authority shall include, or shall approve an
21 agreement including, provisions governing the number of members on
22 the board, the method of appointment, the members to be represented
23 by governmental units or agencies, the terms of initial and
24 subsequent appointments to the board, the manner in which a member
25 of the board may be removed for cause before the expiration of his
26 or her term, the manner in which the authority may be dissolved,
27 and the disposition of assets upon dissolution. An authority

1 described in this subsection shall not be considered established
2 unless all of the following conditions are satisfied:

3 (a) A resolution is approved and filed with the secretary of
4 state by each municipality in which the authority district will be
5 located.

6 (b) The same boundaries have been approved for the authority
7 district by the governing body of each municipality in which the
8 authority district will be located.

9 (c) The governing body of the county in which a majority of
10 the authority district will be located has approved by resolution
11 the creation of the authority.

12 (8) FOR AN AUTHORITY CREATED UNDER SECTION 3(3), EXCEPT AS
13 OTHERWISE PROVIDED BY THIS SUBSECTION, THE NEXT MICHIGAN
14 DEVELOPMENT CORPORATION SHALL COMPLY WITH THE PROCEDURES PRESCRIBED
15 FOR A MUNICIPALITY BY SUBSECTIONS (1) AND (2) AND THIS SUBSECTION.
16 THE PROVISIONS OF SUBSECTIONS (3) AND (4) SHALL NOT APPLY TO AN
17 AUTHORITY EXERCISING ITS POWERS UNDER SECTION 3(3). THE NOTICE
18 REQUIRED BY SUBSECTION (2) MAY BE PUBLISHED BY THE NEXT MICHIGAN
19 DEVELOPMENT CORPORATION IN A NEWSPAPER OR NEWSPAPERS OF GENERAL
20 CIRCULATION WITHIN THE MUNICIPALITIES WHICH ARE CONSTITUENT MEMBERS
21 OF THE NEXT MICHIGAN DEVELOPMENT CORPORATION, AND NOTICE SHALL NOT
22 BE REQUIRED TO BE MAILED TO THE PROPERTY TAXPAYERS OF RECORD IN THE
23 PROPOSED AUTHORITY DISTRICT. THE GOVERNING BODY OF THE NEXT
24 MICHIGAN DEVELOPMENT CORPORATION SHALL BE THE GOVERNING BODY OF THE
25 AUTHORITY. A TAXING JURISDICTION LEVYING AD VALOREM TAXES WITHIN
26 THE AUTHORITY DISTRICT THAT WOULD OTHERWISE BE SUBJECT TO CAPTURE
27 WHICH IS NOT A PARTY TO THE INTERGOVERNMENTAL AGREEMENT MAY EXEMPT

1 ITS TAXES FROM CAPTURE BY ADOPTING A RESOLUTION TO THAT EFFECT AND
2 FILING A COPY NOT MORE THAN 60 DAYS AFTER THE PUBLIC HEARING WITH
3 THE RECORDING OFFICER OF THE NEXT MICHIGAN DEVELOPMENT CORPORATION.
4 THE NEXT MICHIGAN DEVELOPMENT CORPORATION SHALL MAIL NOTICE OF THE
5 PUBLIC HEARING TO THE GOVERNING BODY OF EACH TAXING JURISDICTION
6 WHICH IS NOT A PARTY TO THE INTERGOVERNMENTAL AGREEMENT NOT LESS
7 THAN 20 DAYS BEFORE THE HEARING. FOLLOWING THE PUBLIC HEARING, THE
8 GOVERNING BODY OF THE NEXT MICHIGAN DEVELOPMENT CORPORATION SHALL
9 ADOPT A RESOLUTION DESIGNATING THE BOUNDARIES OF THE AUTHORITY
10 DISTRICT WITHIN WHICH THE AUTHORITY SHALL EXERCISE ITS POWERS,
11 WHICH MAY INCLUDE ANY CERTIFIED TECHNOLOGY PARK WITHIN THE PROPOSED
12 AUTHORITY DISTRICT IN ACCORDANCE WITH THIS SUBSECTION AND MAY
13 INCLUDE PROPERTY ADJACENT TO OR WITHIN 1,500 FEET OF A ROAD
14 CLASSIFIED AS AN ARTERIAL OR COLLECTOR ACCORDING TO THE FEDERAL
15 HIGHWAY ADMINISTRATION MANUAL "HIGHWAY FUNCTIONAL CLASSIFICATION -
16 CONCEPTS, CRITERIA AND PROCEDURES" OR OF ANOTHER ROAD IN THE
17 DISCRETION OF THE NEXT MICHIGAN DEVELOPMENT CORPORATION, AND
18 PROPERTY ADJACENT TO THAT PROPERTY WITHIN THE TERRITORY OF THE NEXT
19 MICHIGAN DEVELOPMENT CORPORATION, AS PROVIDED IN THE RESOLUTION.
20 THE RESOLUTION SHALL BE EFFECTIVE WHEN ADOPTED, SHALL BE FILED WITH
21 THE SECRETARY OF STATE AND THE PRESIDENT OF THE MICHIGAN STRATEGIC
22 FUND PROMPTLY AFTER ITS ADOPTION, AND SHALL BE PUBLISHED AT LEAST
23 ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE TERRITORY OF THE
24 NEXT MICHIGAN DEVELOPMENT CORPORATION. IF AN AUTHORITY DISTRICT
25 DESIGNATED UNDER THIS SUBSECTION OR SUBSEQUENTLY AMENDED INCLUDES A
26 CERTIFIED TECHNOLOGY PARK WHICH IS WITHIN THE AUTHORITY DISTRICT OF
27 ANOTHER AUTHORITY AND WHICH IS SUBJECT TO AN EXISTING DEVELOPMENT

1 PLAN OR TAX INCREMENT FINANCING PLAN, THEN THAT CERTIFIED
2 TECHNOLOGY PARK MAY BE CONSIDERED TO BE UNDER THE JURISDICTION OF
3 THE AUTHORITY ESTABLISHED UNDER SECTION 3(3) IF SO PROVIDED IN A
4 RESOLUTION OF THE AUTHORITY ESTABLISHED UNDER SECTION 3(3) AND IF
5 APPROVED BY RESOLUTION OF THE GOVERNING BODY OF THE MUNICIPALITY
6 WHICH CREATED THE OTHER AUTHORITY, AND BY THE PRESIDENT OF THE
7 MICHIGAN STRATEGIC FUND. IF SO PROVIDED AND APPROVED, THEN THE
8 DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN APPLICABLE TO THE
9 CERTIFIED TECHNOLOGY PARK, INCLUDING ALL ASSETS AND OBLIGATIONS
10 UNDER THE PLANS, SHALL BE CONSIDERED ASSIGNED AND TRANSFERRED FROM
11 THE OTHER AUTHORITY TO THE AUTHORITY CREATED UNDER SECTION 3(3),
12 AND THE INITIAL ASSESSED VALUE OF THE CERTIFIED TECHNOLOGY PARK
13 PRIOR TO THE TRANSFER SHALL REMAIN THE INITIAL ASSESSED VALUE OF
14 THE CERTIFIED TECHNOLOGY PARK FOLLOWING THE TRANSFER. THE TRANSFER
15 SHALL BE EFFECTIVE AS OF THE LATER OF THE EFFECTIVE DATE OF THE
16 RESOLUTION OF THE AUTHORITY ESTABLISHED UNDER SECTION 3(3), THE
17 RESOLUTION APPROVED BY THE GOVERNING BODY OF THE MUNICIPALITY WHICH
18 CREATED THE OTHER AUTHORITY, AND THE APPROVAL OF THE PRESIDENT OF
19 THE MICHIGAN STRATEGIC FUND.

20 Sec. 5. (1) The authority shall be under the supervision and
21 control of a board of 7 members appointed by the chief executive
22 officer of the city, village, or urban township creating the
23 authority subject to the approval of the governing body creating
24 the authority. The board shall include 1 member appointed by the
25 county board of commissioners of the county in which the authority
26 is located. The board shall include 1 member representing a
27 community or junior college in whose district the authority is

1 located appointed by the chief executive officer of that community
2 or junior college. The board shall also include 2 members appointed
3 by the chief executive officer of each local governmental unit,
4 other than the city, village, or urban township creating the
5 authority, which levied 20% or more of the ad valorem property
6 taxes levied against all property located in an authority district
7 in the year before the year in which the authority district is
8 established. However, those additional members shall only vote on
9 matters relating to authority districts located within their
10 respective local unit of government. Of the members first
11 appointed, an equal number, as near as possible, shall have terms
12 designated by the governing body creating the authority of 1 year,
13 2 years, 3 years, and 4 years. However, a member shall hold office
14 until the member's successor is appointed. After the first
15 appointment, each member shall serve for a term of 4 years. An
16 appointment to fill a vacancy shall be made in the same manner as
17 the original appointment. An appointment to fill an unexpired term
18 shall be for the unexpired portion of the term only. Members of the
19 board shall serve without compensation, but shall be reimbursed for
20 actual and necessary expenses.

21 (2) The chairperson of the board shall be elected by the
22 board.

23 (3) Before assuming the duties of office, a member shall
24 qualify by taking and subscribing to the constitutional oath of
25 office.

26 (4) The board shall adopt rules governing its procedure and
27 the holding of regular meetings, subject to the approval of the

governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, ~~Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws 1976 PA 267, MCL 15.261 TO 15.275.~~

(5) Subject to notice and an opportunity to be heard, a member of the board may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to review by the circuit court.

(6) All expense items of the authority shall be publicized annually and the financial records shall be open to the public pursuant to the freedom of information act, ~~Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws 1976 PA 442, MCL 15.231 TO 15.246.~~

(7) THE PROVISIONS OF SUBSECTIONS (1) AND (5) OF THIS SECTION SHALL NOT APPLY TO AN AUTHORITY EXERCISING ITS POWERS UNDER SECTION 3(3) .

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

(a) A statement of the reasons that the plan will result in the development of captured assessed value that could not otherwise 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 A NEXT MICHIGAN DEVELOPMENT AREA DESIGNATED**
13 **UNDER SECTION 12C**, an identification of the real property within
14 the certified technology park **OR THE NEXT MICHIGAN 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 NEXT MICHIGAN**
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 **A NEXT MICHIGAN DEVELOPMENT AREA**, for other eligible property
25 located in the business development area **OR THE NEXT MICHIGAN**
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 applies, the tax increment financing plan shall not provide for the
8 use of tax increment revenues for public facilities other than
9 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) applies, then to the extent that
13 captured tax increment revenues are utilized for the costs of
14 cleanup of identified soil and groundwater contamination, the
15 captured tax increment revenues shall be first credited against the
16 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 A NEXT MICHIGAN 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 NEXT MICHIGAN**
 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 BE APPROVED IF THE GOVERNING BODY OF**
4 **THE NEXT MICHIGAN DEVELOPMENT CORPORATION MAKES THE DETERMINATIONS**
5 **REQUIRED BY SECTION 17.**

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 A NEXT MICHIGAN 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 A**
 21 **NEXT MICHIGAN 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 NEXT MICHIGAN 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 WITHIN OR WITHOUT THE**
5 **DEVELOPMENT AREA FROM WHICH THE TAX INCREMENT REVENUES ARE DERIVED,**
6 **PROVIDED THAT THE TAX INCREMENT REVENUES SHALL BE USED FOR PUBLIC**
7 **FACILITIES WITHIN A NEXT MICHIGAN DEVELOPMENT AREA WITHIN THE**
8 **MUNICIPALITY WHOSE LEVY HAS CONTRIBUTED TO THE TAX INCREMENT**
9 **REVENUES EXCEPT AS OTHERWISE PROVIDED IN THE INTERLOCAL AGREEMENT**
10 **CREATING THE NEXT MICHIGAN DEVELOPMENT CORPORATION THAT ESTABLISHED**
11 **THE AUTHORITY.**

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 SEC. 12C. (1) A NEXT MICHIGAN DEVELOPMENT CORPORATION
7 ESTABLISHING AN AUTHORITY UNDER SECTION 3(3) SHALL NOTIFY THE
8 MICHIGAN ECONOMIC DEVELOPMENT CORPORATION OF THE DESIGNATION OF A
9 NEXT MICHIGAN DEVELOPMENT AREA.

10 (2) THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION SHALL MARKET
11 THE AUTHORITY DISTRICT INCLUDING NEXT MICHIGAN DEVELOPMENT AREAS.

12 (3) FOR AN AUTHORITY EXERCISING ITS POWERS UNDER SECTION 3(3),
13 EACH MUNICIPALITY AND COUNTY WHICH IS A PARTY TO THE INTERLOCAL
14 AGREEMENT ESTABLISHING THE NEXT MICHIGAN DEVELOPMENT CORPORATION,
15 OR ANY 1 OF THEM, BY A MAJORITY VOTE OF THE MEMBERS OF ITS
16 GOVERNING BODY, MAY MAKE A LIMITED TAX PLEDGE TO SUPPORT THE
17 AUTHORITY'S TAX INCREMENT BONDS ISSUED UNDER SECTION 14 OR, IF
18 AUTHORIZED BY THE VOTERS OF THE MUNICIPALITY OR COUNTY, MAY PLEDGE
19 ITS FULL FAITH AND CREDIT FOR THE PAYMENT OF THE PRINCIPAL OF AND
20 INTEREST ON THE BONDS. THE MUNICIPALITIES OR COUNTIES THAT HAVE
21 MADE A PLEDGE TO SUPPORT THE AUTHORITY'S TAX INCREMENT BONDS MAY
22 APPROVE BY RESOLUTION AN AGREEMENT AMONG THEMSELVES ESTABLISHING
23 OBLIGATIONS EACH MAY HAVE TO THE OTHER PARTY OR PARTIES TO THE
24 AGREEMENT FOR REIMBURSEMENT OF ALL OR ANY PORTION OF A PAYMENT MADE
25 BY A MUNICIPALITY OR COUNTY RELATED TO ITS PLEDGE TO SUPPORT THE
26 AUTHORITY'S TAX INCREMENT BONDS.

27 SEC. 12D. (1) IF AN AUTHORITY DETERMINES THAT A SALE PRICE OR

Senate Bill No. 1081 as amended November 10, 2010

1 RENTAL VALUE AT BELOW MARKET RATE WILL ASSIST IN INCREASING
2 EMPLOYMENT OR PRIVATE INVESTMENT IN A DEVELOPMENT AREA, THE
3 AUTHORITY MAY DETERMINE A SALE PRICE OR RENTAL VALUE FOR PUBLIC
4 FACILITIES OWNED OR DEVELOPED BY THE AUTHORITY AT BELOW MARKET
5 RATE.

6 (2) IF PUBLIC FACILITIES ARE CONVEYED OR LEASED AT LESS THAN
7 FAIR MARKET VALUE OR AT BELOW MARKET RATES, THE TERMS OF THE
8 CONVEYANCE OR LEASE SHALL INCLUDE LEGAL AND EQUITABLE REMEDIES AND
9 RIGHTS TO ASSURE THAT THE PUBLIC FACILITIES ARE USED AS ELIGIBLE
10 PROPERTY. LEGAL AND EQUITABLE REMEDIES AND RIGHTS MAY INCLUDE
11 PENALTIES AND ACTUAL OR LIQUIDATED DAMAGES. IF PUBLIC FACILITIES
12 FOR PUBLIC BENEFIT ARE PROVIDED TO PRIVATE OWNERS OR USERS OF
13 ELIGIBLE PROPERTY, THE TERMS OF THE CONVEYANCE OR LEASE SHALL
14 INCLUDE A BENEFIT TO THE PRIVATE OWNER OR USER.

<<Enacting section 1. This amendatory act does not take
effect unless House Bill No. 5349 of the 95th Legislature is
enacted into law.>>