

HOUSE BILL No. 5347

September 10, 2009, Introduced by Reps. Byrnes, Polidori, Constan, Geiss, Kandrevas, Walsh, Leland, Johnson, Jackson, LeBlanc, Bledsoe and Angerer and referred to the Committee on Transportation.

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 section 12c.

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

1 financing plan approved prior to the advance, or a resolution of
2 the authority or the municipality.

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

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

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

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

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

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

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

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

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

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

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

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

27 (iii) Is developed for the primary purpose of attracting 1 or

1 more owners or tenants who will engage in activities that would
2 each separately qualify the property as eligible property under
3 subdivision (p) (iii) .

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

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

26 (j) "Certified technology park" means that portion of the
27 authority district designated by a written agreement entered into

1 pursuant to section 12a between the authority, the municipality,
2 and the Michigan economic development corporation.

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

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

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

12 (n) "Eligible advance" means an advance made before August 19,
13 1993.

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

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

27 (i) The manufacture of goods or materials or the processing of

1 goods or materials by physical or chemical change.

2 (ii) Agricultural processing.

3 (iii) A high technology activity.

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

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

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

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

1 special assessment district shall be assessed against parcels owned
2 by parties potentially responsible for the identified groundwater
3 contamination pursuant to law.

4 (v) A business incubator.

5 (vi) **A QUALIFIED ELIGIBLE BUSINESS, AS THAT TERM IS DEFINED IN**
6 **SECTION 3 OF THE MICHIGAN RENAISSANCE ZONE ACT, 1996 PA 376, MCL**
7 **125.2683, AND OTHER BUSINESSES WITHIN A NEXT MICHIGAN DEVELOPMENT**
8 **AREA, BUT ONLY TO THE EXTENT DESIGNATED AS ELIGIBLE PROPERTY WITHIN**
9 **A DEVELOPMENT PLAN APPROVED BY A NEXT MICHIGAN DEVELOPMENT**
10 **CORPORATION.**

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

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

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

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

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

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

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

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

27 **(X) "NEXT MICHIGAN DEVELOPMENT AREA" MEANS A PORTION OF AN**

1 AUTHORITY DISTRICT DESIGNATED BY A NEXT MICHIGAN DEVELOPMENT
2 CORPORATION UNDER SECTION 12C TO WHICH A DEVELOPMENT PLAN IS
3 APPLICABLE.

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

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

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

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

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

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

26 (v) A letter of credit, paying agent, transfer agent, bond
27 registrar, or trustee fee associated with a contract, agreement,

1 bond, or note.

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

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

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

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

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

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

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

27 (ii) An obligation issued or incurred by an authority or by a

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

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

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

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

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

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

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

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

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

27 (v) All of the following costs approved by the Michigan

1 economic development corporation:

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

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

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

24 **(DD)** ~~(bb)~~—"Qualified refunding obligation" means an obligation
25 issued or incurred by an authority or by a municipality on behalf
26 of an authority to refund an obligation if the refunding obligation
27 meets both of the following:

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

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

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

27 **(FF)** ~~(dd)~~ "State fiscal year" means the annual period

1 commencing October 1 of each year.

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

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

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

26 (A) To repay eligible advances, eligible obligations, and
27 other protected obligations.

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

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

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

27 (A) Ad valorem property taxes or specific local taxes that are

1 excluded from and not made part of the tax increment financing
2 plan.

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

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

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

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

25 (iv) The amount of tax increment revenues authorized to be
26 included under subparagraph (ii), and required to be transmitted to
27 the authority under section 13(1), from ad valorem property taxes

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

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

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

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

20 (i) Meets all of the following requirements:

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

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

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

27 (ii) Meets all of the following requirements:

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

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

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

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

10 (iii) Meets all of the following requirements:

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

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

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

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

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

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

22 (iv) Meets all of the following requirements:

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

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

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

27 (v) Meets all of the following requirements:

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

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

6 (C) Has a master plan in effect.

7 (vi) Meets all of the following requirements:

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

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

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

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

16 (E) Has rail service.

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

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

22 (2) In addition to an authority established under subsection
23 (1), a municipality may join with 1 or more other municipality
24 located within the same county to establish an authority under this
25 act. An authority created under this subsection may only exercise
26 its powers in a certified technology park designated in an
27 agreement made under section 12a. A municipality shall not

1 establish more than 1 authority under this subsection.

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

10 (4) ~~(3)~~—The authority shall be a public body corporate which
11 may sue and be sued in any court of this state. The authority
12 possesses all the powers necessary to carry out the purpose of its
13 incorporation. The enumeration of a power in this act shall not be
14 construed as a limitation upon the general powers of the authority.
15 The powers granted in this act to an authority may be exercised
16 notwithstanding that bonds are not issued by the authority.

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

21 (2) In the resolution of intent, the governing body proposing
22 to create the authority shall set a date for holding a public
23 hearing on the adoption of a proposed resolution creating the
24 authority and designating the boundaries of the authority district
25 or districts. Notice of the public hearing shall be published twice
26 in a newspaper of general circulation in the municipality, not less
27 than 20 nor more than 40 days before the date of the hearing. ~~Not~~

1 **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8), NOT** less than 20
2 days before the hearing, the governing body proposing to create the
3 authority shall also mail notice of the hearing to the property
4 taxpayers of record in a proposed authority district and, for a
5 public hearing to be held after February 15, 1994, to the governing
6 body of each taxing jurisdiction levying taxes that would be
7 subject to capture if the authority is established and a tax
8 increment financing plan is approved. Beginning June 1, 2005, the
9 notice of hearing within the time frame described in this
10 subsection shall be mailed by certified mail to the governing body
11 of each taxing jurisdiction levying taxes that would be subject to
12 capture if the authority is established and a tax increment
13 financing plan is approved. Failure of a property taxpayer to
14 receive the notice shall not invalidate these proceedings. The
15 notice shall state the date, time, and place of the hearing, and
16 shall describe the boundaries of the proposed authority district or
17 districts. At that hearing, a resident, taxpayer, or property owner
18 from a taxing jurisdiction in which the proposed district is
19 located or an official from a taxing jurisdiction with millage that
20 would be subject to capture has the right to be heard in regard to
21 the establishment of the authority and the boundaries of that
22 proposed authority district. The governing body of the municipality
23 in which a proposed district is to be located shall not incorporate
24 land into an authority district not included in the description
25 contained in the notice of public hearing, but it may eliminate
26 lands described in the notice of public hearing from an authority
27 district in the final determination of the boundaries.

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

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

27 (5) The governing body may alter or amend the boundaries of an

1 authority district to include or exclude lands from that authority
2 district or create new authority districts pursuant to the same
3 requirements prescribed for adopting the resolution creating the
4 authority.

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

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

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

13 (7) Except as otherwise provided by this subsection, if 2 or
14 more municipalities desire to establish an authority under section
15 3(2), each municipality in which the authority district will be
16 located shall comply with the procedures prescribed by this act.
17 The notice required by subsection (2) may be published jointly by
18 the municipalities establishing the authority. The resolutions
19 establishing the authority shall include, or shall approve an
20 agreement including, provisions governing the number of members on
21 the board, the method of appointment, the members to be represented
22 by governmental units or agencies, the terms of initial and
23 subsequent appointments to the board, the manner in which a member
24 of the board may be removed for cause before the expiration of his
25 or her term, the manner in which the authority may be dissolved,
26 and the disposition of assets upon dissolution. An authority
27 described in this subsection shall not be considered established

1 unless all of the following conditions are satisfied:

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

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

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

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

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

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

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

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

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

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

25 (4) The board shall adopt rules governing its procedure and
26 the holding of regular meetings, subject to the approval of the
27 governing body. Special meetings may be held when called in the

1 manner provided in the rules of the board. Meetings of the board
2 shall be open to the public, in accordance with the open meetings
3 act, ~~Act No. 267 of the Public Acts of 1976, being sections 15.261~~
4 ~~to 15.275 of the Michigan Compiled Laws 1976 PA 267, MCL 15.261 TO~~
5 ~~15.275.~~

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

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

15 (7) **THE PROVISIONS OF SUBSECTIONS (1) AND (5) OF THIS SECTION**
16 **SHALL NOT APPLY TO AN AUTHORITY EXERCISING ITS POWERS UNDER SECTION**
17 **3(3).**

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

24 (a) A statement of the reasons that the plan will result in
25 the development of captured assessed value that could not otherwise
26 be expected. The reasons may include, but are not limited to,
27 activities of the municipality, authority, or others undertaken

1 before formulation or adoption of the plan in reasonable
2 anticipation that the objectives of the plan would be achieved by
3 some means.

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

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

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

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

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

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

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

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

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

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

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

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

1 traffic flow to be generated by the eligible property, and the
2 development or improvement of public facilities that are necessary
3 to service the eligible property, whether or not located on that
4 eligible property. If the eligible property identified in the tax
5 increment financing plan is property to which section 2(p)(iv)
6 applies, the tax increment financing plan shall not provide for the
7 use of tax increment revenues for public facilities other than
8 those described in the development plan as of April 1, 1991.

9 Whether or not provided in the tax increment financing plan, if the
10 eligible property identified in the tax increment financing plan is
11 property to which section 2(p)(iv) applies, then to the extent that
12 captured tax increment revenues are utilized for the costs of
13 cleanup of identified soil and groundwater contamination, the
14 captured tax increment revenues shall be first credited against the
15 shares of responsibility for the total costs of cleanup of
16 uncollectible parties who are responsible for the identified soil
17 and groundwater contamination pursuant to law, and then shall be
18 credited on a pro rata basis against the shares of responsibility
19 for the total costs of cleanup of other parties who are responsible
20 for the identified soil and groundwater contamination pursuant to
21 law.

22 (3) The percentage of taxes levied for school operating
23 purposes that is captured and used by the tax increment financing
24 plan and the tax increment financing plans under 1975 PA 197, MCL
25 125.1651 to 125.1681, the tax increment finance authority act, 1980
26 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment
27 financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall not be

1 greater than the percentage capture and use of taxes levied by a
2 municipality or county for operating purposes under the tax
3 increment financing plan and tax increment financing plans under
4 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance
5 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the
6 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
7 to 125.2672. For purposes of the previous sentence, taxes levied by
8 a county for operating purposes include only millage allocated for
9 county or charter county purposes under the property tax limitation
10 act, 1933 PA 62, MCL 211.201 to 211.217a.

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

1 body. A PLAN SUBMITTED BY AN AUTHORITY EXERCISING ITS POWERS UNDER
2 SECTIONS 3(3) AND 4(8) SHALL BE APPROVED IF THE GOVERNING BODY OF
3 THE NEXT MICHIGAN DEVELOPMENT CORPORATION MAKES THE DETERMINATIONS
4 REQUIRED BY SECTION 17.

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

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

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

26 (7) The tax increment financing plan may provide for the use
 27 of tax increment revenues from a certified technology park for

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

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

26 (9) The penalty provision described in subsection (8) shall
27 not be less than an amount equal to the difference between the fair

1 market value of the property when originally sold, conveyed, or
2 otherwise disposed of and the actual consideration paid by the
3 person to whom the property was originally sold, conveyed, or
4 otherwise disposed of.

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

9 (2) IF THE NEXT MICHIGAN DEVELOPMENT CORPORATION DETERMINES
10 THAT A SALE PRICE OR RENTAL VALUE AT BELOW MARKET RATE WILL ASSIST
11 IN INCREASING EMPLOYMENT OR PRIVATE INVESTMENT IN A NEXT MICHIGAN
12 DEVELOPMENT AREA, THE AUTHORITY HAS AUTHORITY TO DETERMINE THE SALE
13 PRICE OR RENTAL VALUE FOR PUBLIC FACILITIES OWNED OR DEVELOPED BY
14 THE AUTHORITY IN THE NEXT MICHIGAN DEVELOPMENT AREA AT BELOW MARKET
15 RATE.

16 (3) IF PUBLIC FACILITIES ARE CONVEYED OR LEASED AT LESS THAN
17 FAIR MARKET VALUE OR AT BELOW MARKET RATES, THE TERMS OF THE
18 CONVEYANCE OR LEASE SHALL INCLUDE LEGAL AND EQUITABLE REMEDIES AND
19 RIGHTS TO ASSURE THAT THE PUBLIC FACILITIES ARE USED AS ELIGIBLE
20 PROPERTY. LEGAL AND EQUITABLE REMEDIES AND RIGHTS MAY INCLUDE
21 PENALTIES AND ACTUAL OR LIQUIDATED DAMAGES. IF PUBLIC FACILITIES
22 FOR PUBLIC BENEFIT ARE PROVIDED TO PRIVATE OWNERS OR USERS OF
23 ELIGIBLE PROPERTY, THE TERMS OF THE CONVEYANCE OR LEASE SHALL
24 INCLUDE A BENEFIT TO THE PRIVATE OWNER OR USER.

25 (4) THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION SHALL MARKET
26 THE AUTHORITY DISTRICT INCLUDING NEXT MICHIGAN DEVELOPMENT AREAS.

27 (5) FOR AN AUTHORITY EXERCISING ITS POWERS UNDER SECTION 3(3),

1 EACH MUNICIPALITY AND COUNTY WHICH IS A PARTY TO THE INTERLOCAL
2 AGREEMENT ESTABLISHING THE NEXT MICHIGAN DEVELOPMENT CORPORATION,
3 OR ANY 1 OF THEM, BY A MAJORITY VOTE OF THE MEMBERS OF ITS
4 GOVERNING BODY, MAY MAKE A LIMITED TAX PLEDGE TO SUPPORT THE
5 AUTHORITY'S TAX INCREMENT BONDS ISSUED UNDER SECTION 14 OR, IF
6 AUTHORIZED BY THE VOTERS OF THE MUNICIPALITY OR COUNTY, MAY PLEDGE
7 ITS FULL FAITH AND CREDIT FOR THE PAYMENT OF THE PRINCIPAL OF AND
8 INTEREST ON THE BONDS. THE MUNICIPALITIES OR COUNTIES THAT HAVE
9 MADE A PLEDGE TO SUPPORT THE AUTHORITY'S TAX INCREMENT BONDS MAY
10 APPROVE BY RESOLUTION AN AGREEMENT AMONG THEMSELVES ESTABLISHING
11 OBLIGATIONS EACH MAY HAVE TO THE OTHER PARTY OR PARTIES TO THE
12 AGREEMENT FOR REIMBURSEMENT OF ALL OR ANY PORTION OF A PAYMENT MADE
13 BY A MUNICIPALITY OR COUNTY RELATED TO ITS PLEDGE TO SUPPORT THE
14 AUTHORITY'S TAX INCREMENT BONDS.