

Act No. 276  
Public Acts of 2010  
Approved by the Governor  
December 15, 2010  
Filed with the Secretary of State  
December 15, 2010  
EFFECTIVE DATE: December 15, 2010

**STATE OF MICHIGAN  
95TH LEGISLATURE  
REGULAR SESSION OF 2010**

**Introduced by Reps. Byrnes, Polidori, Constan, Geiss, Kandrevas, Walsh, Leland, Johnson, Jackson, LeBlanc, Bledsoe and Angerer**

# **ENROLLED HOUSE BILL No. 5347**

AN ACT to amend 1986 PA 281, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing," 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 the authority or the municipality.

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

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

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

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

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

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

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

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

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

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

(i) Is located in a certified technology park.

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

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

(h) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park or a next Michigan development area, the real and personal property included in the tax increment financing plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined pursuant to subdivision (ee), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value. Except as otherwise provided in this act, tax abated property in a renaissance zone as defined under section 3 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2683, shall be excluded from the calculation of captured assessed value to the extent that the property is exempt from ad valorem property taxes or specific local taxes.

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

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

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

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

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

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

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

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

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

(ii) Agricultural processing.

(iii) A high technology activity.

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

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

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

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

(v) A business incubator.

(vi) An eligible next Michigan business, as that term is defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803, and other businesses within a next Michigan development area, but only to the extent designated as eligible property within a development plan approved by a next Michigan development corporation.

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

(r) "Governing body" means, except as otherwise provided in this subdivision, the elected body having legislative powers of a municipality creating an authority under this act. For a next Michigan development corporation, governing body means the executive committee of the next Michigan development corporation, unless otherwise provided in the interlocal agreement or articles of incorporation creating the next Michigan development corporation or the governing body of an eligible urban entity or its designee as provided in the next Michigan development act.

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

(t) "Initial assessed value" means the assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park or a next Michigan development area, the assessed value of any real and personal property included in the tax increment financing plan, at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, for property that becomes eligible property in other than a certified technology park after the date the plan is approved, at the time the property becomes eligible property. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in subdivision (ee).

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

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

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

(x) "Next Michigan development area" means a portion of an authority district designated by a next Michigan development corporation under section 12c to which a development plan is applicable.

(y) "Next Michigan development corporation" means that term as defined in section 3 of the next Michigan development act.

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

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

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

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

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

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

(aa) "On behalf of an authority", in relation to an eligible advance made by a municipality or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

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

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

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

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

(bb) "Other protected obligation" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

(dd) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the refunding obligation meets both of the following:

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

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

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

ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

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

(gg) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of eligible property within the district or, for purposes of a certified technology park or a next Michigan development area, real or personal property that is located within the certified technology park or a next Michigan development area and included within the tax increment financing plan, subject to the following requirements:

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

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

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

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

(C) To fund the cost of public facilities related to or for the benefit of eligible property located within a next Michigan development area to the extent that the public facilities have been included in a development plan, not to exceed 50%, as determined by the state treasurer, of the amounts levied by the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and intermediate school districts for a period not to exceed 15 years, as determined by the state treasurer, if the state treasurer determines that the capture under this sub-subparagraph is necessary to reduce unemployment, promote economic growth, and increase capital investment in the authority district.

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

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

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

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

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

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

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

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

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

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

(i) Meets all of the following requirements:

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

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

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

(ii) Meets all of the following requirements:

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

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

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

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

(iii) Meets all of the following requirements:

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

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

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

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

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

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

(iv) Meets all of the following requirements:

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

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

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

(v) Meets all of the following requirements:

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

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

(C) Has a master plan in effect.

(vi) Meets all of the following requirements:

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

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

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

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

(E) Has rail service.

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

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

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

(3) A next Michigan development corporation may establish not more than 1 authority under the provisions of this act. An authority established under this subsection shall exercise its powers within its authority district and in all next

Michigan development areas. The authority district in which the authority may exercise its powers shall include all or part of the territory of a next Michigan development corporation, as determined by the governing body of the next Michigan development corporation.

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

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

(2) In the resolution of intent, the governing body proposing to create the authority shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district or districts. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Except as otherwise provided in subsection (8), not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in a proposed authority district and, for a public hearing to be held after February 15, 1994, to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district or districts. At that hearing, a resident, taxpayer, or property owner from a taxing jurisdiction in which the proposed district is located or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of that proposed authority district. The governing body of the municipality in which a proposed district is to be located shall not incorporate land into an authority district not included in the description contained in the notice of public hearing, but it may eliminate lands described in the notice of public hearing from an authority district in the final determination of the boundaries.

(3) Except as otherwise provided in subsection (8), not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction with millage that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. However, a resolution by a governing body of a taxing jurisdiction to exempt its taxes from capture is not effective for the capture of taxes that are used for a certified technology park. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Except as otherwise provided in subsection (8), not less than 60 days after the public hearing, if the governing body creating the authority intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority and designating the boundaries of the authority district or districts within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval of resolutions by the chief executive officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

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

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

- (a) Publication of the resolution creating the authority as adopted.
- (b) Filing of the resolution creating the authority with the secretary of state.

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

authority may be dissolved, and the disposition of assets upon dissolution. An authority described in this subsection shall not be considered established unless all of the following conditions are satisfied:

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

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

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

(8) For an authority created under section 3(3), except as otherwise provided by this subsection, the next Michigan development corporation shall comply with the procedures prescribed for a municipality by subsections (1) and (2) and this subsection. The provisions of subsections (3) and (4) shall not apply to an authority exercising its powers under section 3(3). The notice required by subsection (2) may be published by the next Michigan development corporation in a newspaper or newspapers of general circulation within the municipalities which are constituent members of the next Michigan development corporation, and notice shall not be required to be mailed to the property taxpayers of record in the proposed authority district. The governing body of the next Michigan development corporation shall be the governing body of the authority. A taxing jurisdiction levying ad valorem taxes within the authority district that would otherwise be subject to capture which is not a party to the intergovernmental agreement may exempt its taxes from capture by adopting a resolution to that effect and filing a copy not more than 60 days after the public hearing with the recording officer of the next Michigan development corporation. The next Michigan development corporation shall mail notice of the public hearing to the governing body of each taxing jurisdiction which is not a party to the intergovernmental agreement not less than 20 days before the hearing. Following the public hearing, the governing body of the next Michigan development corporation shall adopt a resolution designating the boundaries of the authority district within which the authority shall exercise its powers, which may include any certified technology park within the proposed authority district in accordance with this subsection and may include property adjacent to or within 1,500 feet of a road classified as an arterial or collector according to the federal highway administration manual "Highway Functional Classification - Concepts, Criteria and Procedures" or of another road in the discretion of the next Michigan development corporation, and property adjacent to that property within the territory of the next Michigan development corporation, as provided in the resolution. The resolution shall be effective when adopted, shall be filed with the secretary of state and the president of the Michigan strategic fund promptly after its adoption, and shall be published at least once in a newspaper of general circulation in the territory of the next Michigan development corporation. If an authority district designated under this subsection or subsequently amended includes a certified technology park which is within the authority district of another authority and which is subject to an existing development plan or tax increment financing plan, then that certified technology park may be considered to be under the jurisdiction of the authority established under section 3(3) if so provided in a resolution of the authority established under section 3(3) and if approved by resolution of the governing body of the municipality which created the other authority, and by the president of the Michigan strategic fund. If so provided and approved, then the development plan and tax increment financing plan applicable to the certified technology park, including all assets and obligations under the plans, shall be considered assigned and transferred from the other authority to the authority created under section 3(3), and the initial assessed value of the certified technology park prior to the transfer shall remain the initial assessed value of the certified technology park following the transfer. The transfer shall be effective as of the later of the effective date of the resolution of the authority established under section 3(3), the resolution approved by the governing body of the municipality which created the other authority, and the approval of the president of the Michigan strategic fund.

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

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

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

(4) The board shall adopt rules governing its procedure and 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, 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, 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, activities of the municipality, authority, or others undertaken before formulation or adoption of the plan in reasonable anticipation that the objectives of the plan would be achieved by some means.

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

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

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

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

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

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

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

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

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

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

(l) The proposed boundaries of a certified technology park to be created under an agreement proposed to be entered into pursuant to section 12a or of a next Michigan development area designated under section 12c, an identification of the real property within the certified technology park or the next Michigan development area to be included in the tax increment financing plan for purposes of determining tax increment revenues, and whether personal property located in the certified technology park or the next Michigan development area is exempt from determining tax increment revenues.

(2) Except as provided in subsection (7), a tax increment financing plan shall provide for the use of tax increment revenues for public facilities for eligible property whose captured assessed value produces the tax increment revenues or, to the extent the eligible property is located within a business development area or a next Michigan development area, for other eligible property located in the business development area or the next Michigan development area. Public facilities for eligible property include the development or improvement of access to and around, or within the eligible property, of road facilities reasonably required by traffic flow to be generated by the eligible property, and the development or improvement of public facilities that are necessary to service the eligible property, whether or not located on that eligible property. If the eligible property identified in the tax increment financing plan is property to which section 2(p)(iv) applies, the tax increment financing plan shall not provide for the use of tax increment revenues for public facilities other than those described in the development plan as of April 1, 1991. Whether or not provided in the tax increment financing plan, if the eligible property identified in the tax increment financing plan is property to

which section 2(p)(iv) applies, then to the extent that captured tax increment revenues are utilized for the costs of cleanup of identified soil and groundwater contamination, the captured tax increment revenues shall be first credited against the shares of responsibility for the total costs of cleanup of uncollectible parties who are responsible for the identified soil and groundwater contamination pursuant to law, and then shall be credited on a pro rata basis against the shares of responsibility for the total costs of cleanup of other parties who are responsible for the identified soil and groundwater contamination pursuant to law.

(3) The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan and the tax increment financing plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall not be greater than the percentage capture and use of taxes levied by a municipality or county for operating purposes under the tax increment financing plan and tax increment financing plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(4) Except as otherwise provided by this subsection, approval of the tax increment financing plan shall be in accordance with the notice, hearing, disclosure, and approval provisions of sections 16 and 17. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together. For a plan submitted by an authority established by 2 or more municipalities under sections 3(2) and 4(7) or by an authority established by a next Michigan development corporation under sections 3(3) and 4(8), the notice required by section 16 may be published jointly by the municipalities in which the authority district is located or by the next Michigan development corporation. For a plan submitted by an authority exercising its powers under sections 3(2) and 4(7), the plan shall not be considered approved unless each governing body in which the authority district is located makes the determinations required by section 17 and approves the same plan, including the same modifications, if any, made to the plan by any other governing body. A plan submitted by an authority exercising its powers under sections 3(3) and 4(8) shall be approved if the governing body of the next Michigan development corporation makes the determinations required by section 17.

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

(6) Property qualified as a public facility under section 2(cc)(ii) that is acquired by an authority may be sold, conveyed, or otherwise disposed to any person, public or private, for fair market value or reasonable monetary consideration established by the authority with the concurrence of the Michigan economic development corporation and the municipality in which the eligible property is located based on a fair market value appraisal from a fee appraiser only if the property is sold for fair market value. Unless the property acquired by an authority was located within a certified business park, a certified technology park, or a next Michigan development area at the time of disposition, an authority shall remit all monetary proceeds received from the sale or disposition of property that qualified as a public facility under section 2(cc)(ii) and was purchased with tax increment revenues to the taxing jurisdictions. Proceeds distributed to taxing jurisdictions shall be remitted in proportion to the amount of tax increment revenues attributable to each taxing jurisdiction in the year the property was acquired. If the property was acquired in part with funds other than tax increment revenues, only that portion of the monetary proceeds received upon disposition that represent the proportion of the cost of acquisition paid with tax increment revenues is required to be remitted to taxing jurisdictions. If the property is located within a certified business park, a certified technology park, or a next Michigan development area at the time of disposition, the monetary proceeds received from the sale or disposition of that property may be retained by the authority for any purpose necessary to further the development program for the certified business park, certified technology park, or next Michigan development area in accordance with the tax increment financing plan.

(7) The tax increment financing plan may provide for the use of tax increment revenues from a certified technology park for public facilities for any eligible property located in the certified technology park. The tax increment financing plan may provide for the use of tax increment revenues within or without the development area from which the tax increment revenues are derived, provided that the tax increment revenues shall be used for public facilities within a next Michigan development area within the municipality whose levy has contributed to the tax increment revenues except as otherwise provided in the interlocal agreement creating the next Michigan development corporation that established the authority.

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

(9) The penalty provision described in subsection (8) shall not be less than an amount equal to the difference between the fair market value of the property when originally sold, conveyed, or otherwise disposed of and the actual consideration paid by the person to whom the property was originally sold, conveyed, or otherwise disposed of.

Sec. 12c. (1) A next Michigan development corporation establishing an authority under section 3(3) shall notify the Michigan economic development corporation of the designation of a next Michigan development area.

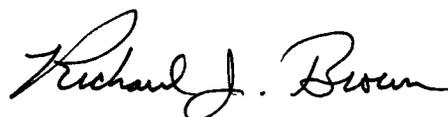
(2) The Michigan economic development corporation shall market the authority district including next Michigan development areas.

(3) For an authority exercising its powers under section 3(3), each municipality and county which is a party to the interlocal agreement establishing the next Michigan development corporation, or any 1 of them, by a majority vote of the members of its governing body, may make a limited tax pledge to support the authority's tax increment bonds issued under section 14 or, if authorized by the voters of the municipality or county, may pledge its full faith and credit for the payment of the principal of and interest on the bonds. The municipalities or counties that have made a pledge to support the authority's tax increment bonds may approve by resolution an agreement among themselves establishing obligations each may have to the other party or parties to the agreement for reimbursement of all or any portion of a payment made by a municipality or county related to its pledge to support the authority's tax increment bonds.

Sec. 12d. (1) If an authority determines that a sale price or rental value at below market rate will assist in increasing employment or private investment in a development area, the authority may determine a sale price or rental value for public facilities owned or developed by the authority at below market rate.

(2) If public facilities are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure that the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages. If public facilities for public benefit are provided to private owners or users of eligible property, the terms of the conveyance or lease shall include a benefit to the private owner or user.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor