

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5463**

A bill to amend 1975 PA 197, entitled

"An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,"

by amending sections 1, 4, 14, and 19 (MCL 125.1651, 125.1654, 125.1664, and 125.1669), section 1 as amended by 2011 PA 24, section 4 as amended by 2006 PA 279, and section 14 as amended by 1993 PA 323, and by adding section 28a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

1 (a) "Advance" means a transfer of funds made by a municipality
2 to an authority or to another person on behalf of the authority in
3 anticipation of repayment by the authority. Evidence of the intent
4 to repay an advance may include, but is not limited to, an executed
5 agreement to repay, provisions contained in a tax increment
6 financing plan approved prior to the advance, or a resolution of
7 the authority or the municipality.

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

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

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

15 (c) "Authority" means a downtown development authority created
16 pursuant to this act.

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

18 (e) "Business district" means an area in the downtown of a
19 municipality zoned and used principally for business.

20 (f) "Captured assessed value" means the amount in any 1 year
21 by which the current assessed value of the project area, including
22 the assessed value of property for which specific local taxes are
23 paid in lieu of property taxes as determined in subdivision ~~(z)~~
24 **(AA)**, exceeds the initial assessed value. The state tax commission
25 shall prescribe the method for calculating captured assessed value.

26 **(G) "CATALYST DEVELOPMENT PROJECT" MEANS A PROJECT THAT IS**
27 **LOCATED IN A MUNICIPALITY WITH A POPULATION GREATER THAN 600,000,**

1 IS DESIGNATED BY THE AUTHORITY AS A CATALYST DEVELOPMENT PROJECT,
2 AND IS EXPECTED TO RESULT IN AT LEAST \$300,000,000.00 OF CAPITAL
3 INVESTMENT. THERE SHALL BE NO MORE THAN 1 CATALYST DEVELOPMENT
4 PROJECT DESIGNATED WITHIN EACH AUTHORITY.

5 (H) ~~(g)~~—"Chief executive officer" means the mayor or city
6 manager of a city, the president or village manager of a village,
7 or the supervisor of a township or, if designated by the township
8 board for purposes of this act, the township superintendent or
9 township manager of a township.

10 (I) ~~(h)~~—"Development area" means that area to which a
11 development plan is applicable.

12 (J) ~~(i)~~—"Development plan" means that information and those
13 requirements for a development plan set forth in section 17.

14 (K) ~~(j)~~—"Development program" means the implementation of the
15 development plan.

16 (L) ~~(k)~~—"Downtown district" means that part of an area in a
17 business district that is specifically designated by ordinance of
18 the governing body of the municipality pursuant to this act. A
19 downtown district may include 1 or more separate and distinct
20 geographic areas in a business district as determined by the
21 municipality if the municipality enters into an agreement with a
22 qualified township under section 3(7) or if the municipality is a
23 city that surrounds another city and that other city lies between
24 the 2 separate and distinct geographic areas. If the downtown
25 district contains more than 1 separate and distinct geographic area
26 in the downtown district, the separate and distinct geographic
27 areas shall be considered 1 downtown district.

1 (M) ~~(H)~~—"Eligible advance" means an advance made before August
2 19, 1993.

3 (N) ~~(m)~~—"Eligible obligation" means an obligation issued or
4 incurred by an authority or by a municipality on behalf of an
5 authority before August 19, 1993 and its subsequent refunding by a
6 qualified refunding obligation. Eligible obligation includes an
7 authority's written agreement entered into before August 19, 1993
8 to pay an obligation issued after August 18, 1993 and before
9 December 31, 1996 by another entity on behalf of the authority.

10 (O) ~~(n)~~—"Fire alarm system" means a system designed to detect
11 and annunciate the presence of fire, or by-products of fire. Fire
12 alarm system includes smoke detectors.

13 (P) ~~(o)~~—"Fiscal year" means the fiscal year of the authority.

14 (Q) ~~(p)~~—"Governing body of a municipality" means the elected
15 body of a municipality having legislative powers.

16 (R) ~~(q)~~—"Initial assessed value" means the assessed value, as
17 equalized, of all the taxable property within the boundaries of the
18 development area at the time the ordinance establishing the tax
19 increment financing plan is approved, as shown by the most recent
20 assessment roll of the municipality for which equalization has been
21 completed at the time the resolution is adopted. Property exempt
22 from taxation at the time of the determination of the initial
23 assessed value shall be included as zero. For the purpose of
24 determining initial assessed value, property for which a specific
25 local tax is paid in lieu of a property tax shall not be considered
26 to be property that is exempt from taxation. The initial assessed
27 value of property for which a specific local tax was paid in lieu

1 of a property tax shall be determined as provided in subdivision
2 ~~(z)~~—**(AA)**. In the case of a municipality having a population of
3 less than 35,000 that established an authority prior to 1985,
4 created a district or districts, and approved a development plan or
5 tax increment financing plan or amendments to a plan, and which
6 plan or tax increment financing plan or amendments to a plan, and
7 which plan expired by its terms December 31, 1991, the initial
8 assessed value for the purpose of any plan or plan amendment
9 adopted as an extension of the expired plan shall be determined as
10 if the plan had not expired December 31, 1991. For a development
11 area designated before 1997 in which a renaissance zone has
12 subsequently been designated pursuant to the Michigan renaissance
13 zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the initial
14 assessed value of the development area otherwise determined under
15 this subdivision shall be reduced by the amount by which the
16 current assessed value of the development area was reduced in 1997
17 due to the exemption of property under section 7ff of the general
18 property tax act, 1893 PA 206, MCL 211.7ff, but in no case shall
19 the initial assessed value be less than zero.

20 **(S)** ~~(r)~~—"Municipality" means a city, village, or township.

21 **(T)** ~~(s)~~—"Obligation" means a written promise to pay, whether
22 evidenced by a contract, agreement, lease, sublease, bond, or note,
23 or a requirement to pay imposed by law. An obligation does not
24 include a payment required solely because of default upon an
25 obligation, employee salaries, or consideration paid for the use of
26 municipal offices. An obligation does not include those bonds that
27 have been economically defeased by refunding bonds issued under

1 this act. Obligation includes, but is not limited to, the
2 following:

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

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

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

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

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

17 (U) ~~(t)~~—"On behalf of an authority", in relation to an
18 eligible advance made by a municipality, or an eligible obligation
19 or other protected obligation issued or incurred by a municipality,
20 means in anticipation that an authority would transfer tax
21 increment revenues or reimburse the municipality from tax increment
22 revenues in an amount sufficient to fully make payment required by
23 the eligible advance made by the municipality, or eligible
24 obligation or other protected obligation issued or incurred by the
25 municipality, if the anticipation of the transfer or receipt of tax
26 increment revenues from the authority is pursuant to or evidenced
27 by 1 or more of the following:

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

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

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

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

9 (V) ~~(u)~~—"Operations" means office maintenance, including
10 salaries and expenses of employees, office supplies, consultation
11 fees, design costs, and other expenses incurred in the daily
12 management of the authority and planning of its activities.

13 (W) ~~(v)~~—"Other protected obligation" means:

14 (i) A qualified refunding obligation issued to refund an
15 obligation described in subparagraph (ii), (iii), or (iv), an
16 obligation that is not a qualified refunding obligation that is
17 issued to refund an eligible obligation, or a qualified refunding
18 obligation issued to refund an obligation described in this
19 subparagraph.

20 (ii) An obligation issued or incurred by an authority or by a
21 municipality on behalf of an authority after August 19, 1993, but
22 before December 31, 1994, to finance a project described in a tax
23 increment finance plan approved by the municipality in accordance
24 with this act before December 31, 1993, for which a contract for
25 final design is entered into by or on behalf of the municipality or
26 authority before March 1, 1994 or for which a written agreement
27 with a developer, titled preferred development agreement, was

1 entered into by or on behalf of the municipality or authority in
2 July 1993.

3 (iii) An obligation incurred by an authority or municipality
4 after August 19, 1993, to reimburse a party to a development
5 agreement entered into by a municipality or authority before August
6 19, 1993, for a project described in a tax increment financing plan
7 approved in accordance with this act before August 19, 1993, and
8 undertaken and installed by that party in accordance with the
9 development agreement.

10 (iv) An obligation incurred by the authority evidenced by or to
11 finance a contract to purchase real property within a development
12 area or a contract to develop that property within the development
13 area, or both, if all of the following requirements are met:

14 (A) The authority purchased the real property in 1993.

15 (B) Before June 30, 1995, the authority enters a contract for
16 the development of the real property located within the development
17 area.

18 (C) In 1993, the authority or municipality on behalf of the
19 authority received approval for a grant from both of the following:

20 (I) The department of natural resources for site reclamation
21 of the real property.

22 (II) The department of consumer and industry services for
23 development of the real property.

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

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

3 (vi) A loan from a municipality to an authority if the loan was
4 approved by the legislative body of the municipality on April 18,
5 1994.

6 (vii) Funds expended to match a grant received by a
7 municipality on behalf of an authority for sidewalk improvements
8 from the Michigan department of transportation if the legislative
9 body of the municipality approved the grant application on April 5,
10 1993 and the grant was received by the municipality in June 1993.

11 (viii) For taxes captured in 1994, an obligation described in
12 this subparagraph issued or incurred to finance a project. An
13 obligation is considered issued or incurred to finance a project
14 described in this subparagraph only if all of the following are
15 met:

16 (A) The obligation requires raising capital for the project or
17 paying for the project, whether or not a borrowing is involved.

18 (B) The obligation was part of a development plan and the tax
19 increment financing plan was approved by a municipality on May 6,
20 1991.

21 (C) The obligation is in the form of a written memorandum of
22 understanding between a municipality and a public utility dated
23 October 27, 1994.

24 (D) The authority or municipality captured school taxes during
25 1994.

26 (ix) **AN OBLIGATION INCURRED AFTER JULY 31, 2012 BY AN**
27 **AUTHORITY, MUNICIPALITY, OR OTHER GOVERNMENTAL UNIT TO PAY FOR**

1 **COSTS ASSOCIATED WITH A CATALYST DEVELOPMENT PROJECT.**

2 **(X)** ~~(w)~~ "Public facility" means a street, plaza, pedestrian
3 mall, and any improvements to a street, plaza, or pedestrian mall
4 including street furniture and beautification, park, parking
5 facility, recreational facility, right-of-way, structure, waterway,
6 bridge, lake, pond, canal, utility line or pipe, building, and
7 access routes to any of the foregoing, designed and dedicated to
8 use by the public generally, or used by a public agency. Public
9 facility includes an improvement to a facility used by the public
10 or a public facility as those terms are defined in section 1 of
11 1966 PA 1, MCL 125.1351, which improvement is made to comply with
12 the barrier free design requirements of the state construction code
13 promulgated under the Stille-DeRossett-Hale single state
14 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.
15 Public facility also includes the acquisition, construction,
16 improvement, and operation of a building owned or leased by the
17 authority to be used as a retail business incubator.

18 **(Y)** ~~(x)~~—"Qualified refunding obligation" means an obligation
19 issued or incurred by an authority or by a municipality on behalf
20 of an authority to refund an obligation if 1 or more of the
21 following apply:

22 (i) The obligation is issued to refund a qualified refunding
23 obligation issued in November 1997 and any subsequent refundings of
24 that obligation issued before January 1, 2010 or the obligation is
25 issued to refund a qualified refunding obligation issued on May 15,
26 1997 and any subsequent refundings of that obligation issued before
27 January 1, 2010 in an authority in which 1 parcel or group of

1 parcels under common ownership represents 50% or more of the
2 taxable value captured within the tax increment finance district
3 and that will ultimately provide for at least a 40% reduction in
4 the taxable value of the property as part of a negotiated
5 settlement as a result of an appeal filed with the state tax
6 tribunal. Qualified refunding obligations issued under this
7 subparagraph are not subject to the requirements of section 611 of
8 the revised municipal finance act, 2001 PA 34, MCL 141.2611, if
9 issued before January 1, 2010. The duration of the development
10 program described in the tax increment financing plan relating to
11 the qualified refunding obligations issued under this subparagraph
12 is hereby extended to 1 year after the final date of maturity of
13 the qualified refunding obligations.

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

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

20 (B) The net present value of the sum of the tax increment
21 revenues described in subdivision ~~(bb) (ii)~~ **(CC) (ii)** and the
22 distributions under section 13b to repay the refunding obligation
23 will not be greater than the net present value of the sum of the
24 tax increment revenues described in subdivision ~~(bb) (ii)~~ **(CC) (ii)** and
25 the distributions under section 13b to repay the obligation being
26 refunded, as calculated using a method approved by the department
27 of treasury.

1 (iii) The obligation is issued to refund an other protected
2 obligation issued as a capital appreciation bond delivered to the
3 Michigan municipal bond authority on December 21, 1994 and any
4 subsequent refundings of that obligation issued before January 1,
5 2012. Qualified refunding obligations issued under this
6 subparagraph are not subject to the requirements of section 305(2),
7 (3), (5), and (6), section 501, section 503, or section 611 of the
8 revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501,
9 141.2503, and 141.2611, if issued before January 1, 2012. The
10 duration of the development program described in the tax increment
11 financing plan relating to the qualified refunding obligations
12 issued under this subparagraph is extended to 1 year after the
13 final date of maturity of the qualified refunding obligations. The
14 obligation may be payable through the year 2025 at an interest rate
15 not exceeding the maximum rate permitted by law, notwithstanding
16 the bond maturity dates contained in the notice of intent to issue
17 bonds published by the municipality. An obligation issued under
18 this subparagraph is a qualified refunding obligation only to the
19 extent that revenues described in subdivision (bb) (ii) and
20 distributions under section 13b to repay the qualified refunding
21 obligation do not exceed \$750,000.00.

22 (Z) ~~(y)~~ "Qualified township" means a township that meets all
23 of the following requirements:

24 (i) Was not eligible to create an authority prior to January 3,
25 2005.

26 (ii) Adjoins a municipality that previously created an
27 authority.

1 (iii) Along with the adjoining municipality that previously
2 created an authority, is a member of the same joint planning
3 commission under the joint municipal planning act, 2003 PA 226, MCL
4 125.131 to 125.143.

5 **(AA)** ~~(z)~~—"Specific local tax" means a tax levied under 1974 PA
6 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978
7 PA 255, MCL 207.651 to 207.668, the technology park development
8 act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL
9 211.181 to 211.182. The initial assessed value or current assessed
10 value of property subject to a specific local tax shall be the
11 quotient of the specific local tax paid divided by the ad valorem
12 millage rate. However, after 1993, the state tax commission shall
13 prescribe the method for calculating the initial assessed value and
14 current assessed value of property for which a specific local tax
15 was paid in lieu of a property tax.

16 **(BB)** ~~(aa)~~—"State fiscal year" means the annual period
17 commencing October 1 of each year.

18 **(CC)** ~~(bb)~~—"Tax increment revenues" means the amount of ad
19 valorem property taxes and specific local taxes attributable to the
20 application of the levy of all taxing jurisdictions upon the
21 captured assessed value of real and personal property in the
22 development area, subject to the following requirements:

23 (i) Tax increment revenues include ad valorem property taxes
24 and specific local taxes attributable to the application of the
25 levy of all taxing jurisdictions other than the state pursuant to
26 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
27 and local or intermediate school districts upon the captured

1 assessed value of real and personal property in the development
2 area for any purpose authorized by this act.

3 (ii) Tax increment revenues include ad valorem property taxes
4 and specific local taxes attributable to the application of the
5 levy of the state pursuant to the state education tax act, 1993 PA
6 331, MCL 211.901 to 211.906, and local or intermediate school
7 districts upon the captured assessed value of real and personal
8 property in the development area in an amount equal to the amount
9 necessary, without regard to subparagraph (i), to repay eligible
10 advances, eligible obligations, and other protected obligations.

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

13 (A) Ad valorem property taxes attributable either to a portion
14 of the captured assessed value shared with taxing jurisdictions
15 within the jurisdictional area of the authority or to a portion of
16 value of property that may be excluded from captured assessed value
17 or specific local taxes attributable to such ad valorem property
18 taxes.

19 (B) Ad valorem property taxes excluded by the tax increment
20 financing plan of the authority from the determination of the
21 amount of tax increment revenues to be transmitted to the authority
22 or specific local taxes attributable to such ad valorem property
23 taxes.

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

27 (iv) The amount of tax increment revenues authorized to be

1 included under subparagraph (ii) or (v), and required to be
2 transmitted to the authority under section 14(1), from ad valorem
3 property taxes and specific local taxes attributable to the
4 application of the levy of the state education tax act, 1993 PA
5 331, MCL 211.901 to 211.906, a local school district or an
6 intermediate school district upon the captured assessed value of
7 real and personal property in a development area shall be
8 determined separately for the levy by the state, each school
9 district, and each intermediate school district as the product of
10 sub-subparagraphs (A) and (B):

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

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

21 (v) Tax increment revenues include ad valorem property taxes
22 and specific local taxes, in an annual amount and for each year
23 approved by the state treasurer, attributable to the levy by this
24 state under the state education tax act, 1993 PA 331, MCL 211.901
25 to 211.906, and by local or intermediate school districts, upon the
26 captured assessed value of real and personal property in the
27 development area of an authority established in a city with a

1 population of ~~750,000~~ 600,000 or more to pay for, or reimburse an
2 advance for, not more than \$8,000,000.00 for the demolition of
3 buildings or structures on public or privately owned property
4 within a development area that commences in 2005, or to pay the
5 annual principal of or interest on an obligation, the terms of
6 which are approved by the state treasurer, issued by an authority,
7 or by a city on behalf of an authority, to pay not more than
8 \$8,000,000.00 of the costs to demolish buildings or structures on
9 public or privately owned property within a development area that
10 commences in 2005.

11 **(vi) TAX INCREMENT REVENUES INCLUDE AD VALOREM PROPERTY TAXES**
12 **AND SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE LEVY BY THIS STATE**
13 **UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.201 TO**
14 **211.906, AND BY LOCAL OR INTERMEDIATE SCHOOL DISTRICTS WHICH WERE**
15 **LEVIED ON OR AFTER JULY 1, 2010, UPON THE CAPTURED ASSESSED VALUE**
16 **OF REAL AND PERSONAL PROPERTY IN THE DEVELOPMENT AREA OF AN**
17 **AUTHORITY ESTABLISHED IN A CITY WITH A POPULATION OF 600,000 OR**
18 **MORE TO PAY FOR, OR REIMBURSE AN ADVANCE FOR, COSTS ASSOCIATED WITH**
19 **THE LAND ACQUISITION, PRELIMINARY SITE WORK, AND CONSTRUCTION OF A**
20 **CATALYST DEVELOPMENT PROJECT.**

21 Sec. 4. (1) Except as provided in subsections (7), (8), and
22 (9), an authority shall be under the supervision and control of a
23 board consisting of the chief executive officer of the municipality
24 and not less than 8 or more than 12 members as determined by the
25 governing body of the municipality. Members shall be appointed by
26 the chief executive officer of the municipality, subject to
27 approval by the governing body of the municipality. Not less than a

1 majority of the members shall be persons having an interest in
2 property located in the downtown district or officers, members,
3 trustees, principals, or employees of a legal entity having an
4 interest in property located in the downtown district. Not less
5 than 1 of the members shall be a resident of the downtown district,
6 if the downtown district has 100 or more persons residing within
7 it. Of the members first appointed, an equal number of the members,
8 as near as is practicable, shall be appointed for 1 year, 2 years,
9 3 years, and 4 years. A member shall hold office until the member's
10 successor is appointed. Thereafter, each member shall serve for a
11 term of 4 years. An appointment to fill a vacancy shall be made by
12 the chief executive officer of the municipality for the unexpired
13 term only. Members of the board shall serve without compensation,
14 but shall be reimbursed for actual and necessary expenses. The
15 chairperson of the board shall be elected by the board. **THE RULES**
16 **OF PROCEDURE OR THE BYLAWS OF THE AUTHORITY MAY PROVIDE THAT A**
17 **PERSON BE APPOINTED TO THE BOARD IN HIS OR HER CAPACITY AS A PUBLIC**
18 **OFFICIAL, WHETHER APPOINTED OR ELECTED. THE RULES OF PROCEDURE OR**
19 **BYLAWS MAY ALSO PROVIDE THAT THE PUBLIC OFFICIAL'S TERM SHALL**
20 **EXPIRE UPON EXPIRATION OF HIS OR HER SERVICE AS A PUBLIC OFFICIAL.**
21 **IN ADDITION, THE PUBLIC OFFICIAL'S MEMBERSHIP ON THE BOARD EXPIRES**
22 **ON HIS OR HER RESIGNATION FROM OFFICE AS A PUBLIC OFFICIAL.**

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

26 (3) The business which the board may perform shall be
27 conducted at a public meeting of the board held in compliance with

1 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public
2 notice of the time, date, and place of the meeting shall be given
3 in the manner required by the open meetings act, 1976 PA 267, MCL
4 15.261 to 15.275. The board shall adopt rules consistent with the
5 open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its
6 procedure and the holding of regular meetings, subject to the
7 approval of the governing body. Special meetings may be held if
8 called in the manner provided in the rules of the board.

9 (4) Pursuant to notice and after having been given an
10 opportunity to be heard, a member of the board may be removed for
11 cause by the governing body. Removal of a member is subject to
12 review by the circuit court.

13 (5) All expense items of the authority shall be publicized
14 monthly and the financial records shall always be open to the
15 public.

16 (6) In addition to the items and records prescribed in
17 subsection (5), a writing prepared, owned, used, in the possession
18 of, or retained by the board in the performance of an official
19 function shall be made available to the public in compliance with
20 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

21 (7) By resolution of its governing body, a municipality having
22 more than 1 authority may establish a single board to govern all
23 authorities in the municipality. The governing body may designate
24 the board of an existing authority as the board for all authorities
25 or may establish by resolution a new board in the same manner as
26 provided in subsection (1). A member of a board governing more than
27 1 authority may be a resident of or have an interest in property in

1 any of the downtown districts controlled by the board in order to
2 meet the requirements of this section.

3 (8) By ordinance, the governing body of a municipality that
4 has a population of less than 5,000 may have the municipality's
5 planning commission created pursuant to **FORMER** 1931 PA 285 ~~7, MCL~~
6 ~~125.31 to 125.45,~~ **OR THE MICHIGAN PLANNING ENABLING ACT, 2008 PA**
7 **33, MCL 125.3801 TO 125.3885**, serve as the board provided for in
8 subsection (1).

9 (9) If a municipality enters into an agreement with a
10 qualified township under section 3(7), the membership of the board
11 may be modified by the interlocal agreement described in section
12 3(7).

13 Sec. 14. (1) When the authority determines that it is
14 necessary for the achievement of the purposes of this act, the
15 authority shall prepare and submit a tax increment financing plan
16 to the governing body of the municipality. The plan shall include a
17 development plan as provided in section 17, a detailed explanation
18 of the tax increment procedure, the maximum amount of bonded
19 indebtedness to be incurred, and the duration of the program, and
20 shall be in compliance with section 15. The plan shall contain a
21 statement of the estimated impact of tax increment financing on the
22 assessed values of all taxing jurisdictions in which the
23 development area is located. The plan may provide for the use of
24 part or all of the captured assessed value, but the portion
25 intended to be used by the authority shall be clearly stated in the
26 tax increment financing plan. The authority or municipality may
27 exclude from captured assessed value growth in property value

1 resulting solely from inflation. The plan shall set forth the
2 method for excluding growth in property value resulting solely from
3 inflation.

4 (2) The percentage of taxes levied for school operating
5 purposes that is captured and used by the tax increment financing
6 plan shall not be greater than the plan's percentage capture and
7 use of taxes levied by a municipality or county for operating
8 purposes. For purposes of the previous sentence, taxes levied by a
9 county for operating purposes include only millage allocated for
10 county or charter county purposes under the property tax limitation
11 act, ~~Act No. 62 of the Public Acts of 1933, being sections 211.201~~
12 ~~to 211.217a of the Michigan Compiled Laws. 1933 PA 62, MCL 211.201~~
13 **TO 211.217A.** For purposes of this subsection, tax increment
14 revenues used to pay bonds issued by a municipality under section
15 16(1) shall be considered to be used by the tax increment financing
16 plan rather than shared with the municipality. The limitation of
17 this subsection does not apply to the portion of the captured
18 assessed value shared pursuant to an agreement entered into before
19 1989 with a county or with a city in which an enterprise zone is
20 approved under section 13 of the enterprise zone act, ~~Act No. 224~~
21 ~~of the Public Acts of 1985, being section 125.2113 of the Michigan~~
22 ~~Compiled Laws. 1985 PA 224, MCL 125.2113.~~
23 (3) Approval of the tax increment financing plan shall be
24 pursuant to the notice, hearing, and disclosure provisions of
25 section 18. If the development plan is part of the tax increment
26 financing plan, only 1 hearing and approval procedure is required
27 for the 2 plans together.

1 (4) Before the public hearing on the tax increment financing
2 plan, the governing body shall provide a reasonable opportunity to
3 the taxing jurisdictions levying taxes subject to capture to meet
4 with the governing body. The authority shall fully inform the
5 taxing jurisdictions of the fiscal and economic implications of the
6 proposed development area. The taxing jurisdictions may present
7 their recommendations at the public hearing on the tax increment
8 financing plan. The authority may enter into agreements with the
9 taxing jurisdictions and the governing body of the municipality in
10 which the development area is located to share a portion of the
11 captured assessed value of the district.

12 (5) A tax increment financing plan may be modified if the
13 modification is approved by the governing body upon notice and
14 after public hearings and agreements as are required for approval
15 of the original plan.

16 **(6) UNDER A TAX INCREMENT FINANCING PLAN THAT INCLUDES A**
17 **CATALYST DEVELOPMENT PROJECT, AN AUTHORITY MAY PLEDGE AVAILABLE TAX**
18 **INCREMENT REVENUES OF THE AUTHORITY AS SECURITY FOR ANY BONDS**
19 **ISSUED TO DEVELOP AND CONSTRUCT A CATALYST DEVELOPMENT PROJECT.**

20 Sec. 19. (1) The governing body after a public hearing on the
21 development plan or the tax increment financing plan, or both, with
22 notice ~~thereof~~ **OF THE HEARING** given in accordance with section 18,
23 shall determine whether the development plan or tax increment
24 financing plan constitutes a public purpose. If it determines that
25 the development plan or tax increment financing plan constitutes a
26 public purpose, it shall then approve or reject the plan, or
27 approve it with modification, by ordinance based on the following

1 considerations:

2 (a) The findings and recommendations of a development area
3 citizens council, if a development area citizens council was
4 formed.

5 (b) The plan meets the requirements set forth in section 17
6 (2).

7 (c) The proposed method of financing the development is
8 feasible and the authority has the ability to arrange the
9 financing.

10 (d) The development is reasonable and necessary to carry out
11 the purposes of this act.

12 (e) The land included within the development area to be
13 acquired is reasonably necessary to carry out the purposes of the
14 plan and of this act in an efficient and economically satisfactory
15 manner.

16 (f) The development plan is in reasonable accord with the
17 master plan of the municipality.

18 (g) Public services, such as fire and police protection and
19 utilities, are or will be adequate to service the project area.

20 (h) Changes in zoning, streets, street levels, intersections,
21 and utilities are reasonably necessary for the project and for the
22 municipality.

23 (2) Amendments to an approved development plan or tax
24 increment plan must be submitted by the authority to the governing
25 body for approval or rejection.

26 **(3) PROPOSED AMENDMENTS MADE TO AN APPROVED DEVELOPMENT PLAN**
27 **TO INCORPORATE A CATALYST DEVELOPMENT PROJECT PLAN SHALL BE**

1 SUBMITTED BY THE AUTHORITY TO THE MICHIGAN STRATEGIC FUND FOR
2 APPROVAL OR REJECTION OF THAT PART OF THE PLAN RELATING TO THE
3 CATALYST DEVELOPMENT PROJECT. AMENDMENTS NOT APPROVED OR REJECTED
4 UNDER THIS SUBSECTION BY THE MICHIGAN STRATEGIC FUND WITHIN 45 DAYS
5 OF SUBMISSION FOR APPROVAL SHALL BE CONSIDERED APPROVED.

6 SEC. 28A. BEGINNING JANUARY 1, 2010, THE AUTHORITY SHALL BE
7 EXEMPT FROM ALL TAXATION ON ITS EARNINGS OR PROPERTY. INSTRUMENTS
8 OF CONVEYANCE FROM AN AUTHORITY ARE EXEMPT FROM TRANSFER TAXES
9 UNDER 1966 PA 134, MCL 207.501 TO 207.513, AND THE STATE REAL
10 ESTATE TRANSFER TAX ACT, 1993 PA 330, MCL 207.521 TO 207.537.