

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 619

A bill to amend 1980 PA 450, entitled
"The tax increment finance authority act,"
by amending sections 1 and 3 (MCL 125.1801 and 125.1803), section 1
as amended by 2014 PA 38 and section 3 as amended by 2005 PA 14.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Advance" means a transfer of funds made by a municipality
3 to an authority or to another person on behalf of the authority.
4 Evidence of the intent to repay an advance is required and may
5 include, but is not limited to, an executed agreement to repay,
6 provisions contained in a tax increment financing plan approved
7 before the advance or before August 14, 1993, or a resolution of
8 the authority or the municipality.

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

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

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

8 (c) "Authority" means a tax increment finance authority
9 created under this act.

10 (d) "Authority district" means that area within which an
11 authority exercises its powers and within which 1 or more
12 development areas may exist.

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

14 (f) "Captured assessed value" means the amount in any 1 year
15 by which the current assessed value of the development area,
16 including the assessed value of property for which specific local
17 taxes are paid in lieu of property taxes as determined in
18 subdivision (w), exceeds the initial assessed value. The state tax
19 commission shall prescribe the method for calculating captured
20 assessed value.

21 (g) "Chief executive officer" means the mayor or city manager
22 of a city, the president of a village, or the supervisor of a
23 township.

24 (h) "Development area" means that area to which a development
25 plan is applicable.

26 (i) "Development area citizens council" or "council" means
27 that advisory body established pursuant to section 20.

1 (j) "Development plan" means that information and those
2 requirements for a development set forth in section 16.

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

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

7 (m) "Eligible obligation" means an obligation issued or
8 incurred by an authority or by a municipality on behalf of an
9 authority before August 19, 1993 and its subsequent refunding by a
10 qualified refunding obligation. Eligible obligation includes an
11 authority's written agreement entered into before August 19, 1993
12 to pay an obligation issued after August 18, 1993 and before
13 December 31, 1996 by another entity on behalf of the authority.
14 Eligible obligation also includes an ongoing management contract or
15 contract for professional services or development services that was
16 entered into by the authority or a municipality on behalf of the
17 authority in 1991, and related similar written agreements executed
18 before 1984, if the 1991 agreement both provides for automatic
19 annual renewal and incorporates by reference the prior related
20 agreements; however, receipt by an authority of tax increment
21 revenues authorized under subdivision (aa)(ii) in order to pay
22 costs arising under those contracts shall be limited to:

23 (i) For taxes levied before July 1, 2005, the amount permitted
24 to be received by an authority for an eligible obligation as
25 provided in this act.

26 (ii) For taxes levied after June 30, 2005 and before July 1,
27 2006, \$3,000,000.00.

1 (iii) For taxes levied after June 30, 2006 and before July 1,
2 2007, \$3,000,000.00.

3 (iv) For taxes levied after June 30, 2007 and before July 1,
4 2008, \$3,000,000.00.

5 (v) For taxes levied after June 30, 2008 and before July 1,
6 2009, \$3,000,000.00.

7 (vi) For taxes levied after June 30, 2009 and before July 1,
8 2010, \$3,000,000.00.

9 (vii) For taxes levied after June 30, 2010 and before July 1,
10 2011, \$2,650,000.00.

11 (viii) For taxes levied after June 30, 2011 and before July 1,
12 2012, \$2,400,000.00.

13 (ix) For taxes levied after June 30, 2012 and before July 1,
14 2013, \$2,125,000.00.

15 (x) For taxes levied after June 30, 2013 and before July 1,
16 2014, \$1,500,000.00.

17 (xi) For taxes levied after June 30, 2014 and before July 1,
18 2015, \$1,150,000.00.

19 (xii) For taxes levied after June 30, 2015, \$0.00.

20 (n) "Fiscal year" means the fiscal year of the authority.

21 (o) "Governing body" means the elected body of a municipality
22 having legislative powers.

23 (p) "Initial assessed value" means the assessed value, as
24 equalized, of all the taxable property within the boundaries of the
25 development area at the time the resolution establishing the tax
26 increment financing plan is approved as shown by the most recent
27 assessment roll of the municipality for which equalization has been

1 completed at the time the resolution is adopted. Property exempt
2 from taxation at the time of the determination of the initial
3 assessed value shall be included as zero. For the purpose of
4 determining initial assessed value, property for which a specific
5 local tax is paid in lieu of a property tax shall not be considered
6 property that is exempt from taxation. The initial assessed value
7 of property for which a specific tax was paid in lieu of a property
8 tax shall be determined as provided in subdivision (w).

9 (q) "Municipality" means a city.

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

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

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

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

27 (iv) A requirement to pay or reimburse a person for the cost

1 of insurance for, or to maintain, property subject to a lease, land
2 contract, purchase agreement, or other agreement.

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

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

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

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

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

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

25 (t) "Other protected obligation" means:

26 (i) A qualified refunding obligation issued to refund an
27 obligation described in subparagraph (ii) or (iii), an obligation

1 that is not a qualified refunding obligation that is issued to
2 refund an eligible obligation, or a qualified refunding obligation
3 issued to refund an obligation described in this subparagraph.

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

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

18 (iv) An obligation issued or incurred by an authority or by a
19 municipality on behalf of an authority to implement a project
20 described in a tax increment finance plan approved by the
21 municipality in accordance with this act before August 19, 1993,
22 that is located on land owned by a public university on the date
23 the tax increment financing plan is approved, and for which a
24 contract for final design is entered into before December 31, 1993.

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

1 management or professional services contracts with the governing
2 body of the county, the last of which was entered into before
3 August 19, 1993.

4 (vi) An obligation issued or incurred by a municipality under
5 a contract executed on December 19, 1994 as subsequently amended
6 between the municipality and the authority to implement a project
7 described in a tax increment finance plan approved by the
8 municipality under this act before August 19, 1993 for which a
9 contract for final design was entered into by the municipality
10 before March 1, 1994 provided that final payment by the
11 municipality is made on or before December 31, 2001.

12 (vii) An obligation issued or incurred by an authority or by a
13 municipality on behalf of an authority that meets all of the
14 following qualifications:

15 (A) The obligation is issued or incurred to finance a project
16 described in a tax increment financing plan approved before August
17 19, 1993 by a municipality in accordance with this act.

18 (B) The obligation qualifies as an other protected obligation
19 under subparagraph (ii) and was issued or incurred by the authority
20 before December 31, 1994 for the purpose of financing the project.

21 (C) A portion of the obligation issued or incurred by the
22 authority before December 31, 1994 for the purpose of financing the
23 project was retired prior to December 31, 1996.

24 (D) The obligation does not exceed the dollar amount of the
25 portion of the obligation retired prior to December 31, 1996.

26 (viii) An obligation incurred by an authority that meets both
27 of the following qualifications:

1 (A) The obligation is a contract of lease originally executed
2 on December 20, 1994 between the municipality and the authority to
3 partially implement the authority's development plan and tax
4 increment financing plan.

5 (B) The obligation qualifies as an obligation under
6 subparagraph (ii). The obligation described in this subparagraph
7 may be amended to extend cash rental payments for a period not to
8 exceed 30 years through the year 2039. The duration of the
9 development plan and tax increment financing plan described in this
10 subparagraph is extended to 1 year after the final date that the
11 extended cash rental payments are due.

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

13 (i) A street, plaza, or pedestrian mall, and any improvements
14 to a street, plaza, boulevard, alley, or pedestrian mall, including
15 street furniture and beautification, park, parking facility,
16 recreation facility, playground, school, library, public
17 institution or administration building, right of way, structure,
18 waterway, bridge, lake, pond, canal, utility line or pipeline,
19 transit-oriented development, transit-oriented facility, and other
20 similar facilities and necessary easements of these facilities
21 designed and dedicated to use by the public generally or used by a
22 public agency. As used in this subparagraph, public institution or
23 administration building includes, but is not limited to, a police
24 station, fire station, court building, or other public safety
25 facility.

26 (ii) The acquisition and disposal of real and personal
27 property or interests in real and personal property, demolition of

1 structures, site preparation, relocation costs, building
2 rehabilitation, and all associated administrative costs, including,
3 but not limited to, architect's, engineer's, legal, and accounting
4 fees as contained in the resolution establishing the district's
5 development plan.

6 (iii) An improvement to a facility used by the public or a
7 public facility as those terms are defined in section 1 of 1966 PA
8 1, MCL 125.1351, which improvement is made to comply with the
9 barrier free design requirements of the state construction code
10 promulgated under the Stille-DeRossett-Hale single state
11 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

12 (v) "Qualified refunding obligation" means an obligation
13 issued or incurred by an authority or by a municipality on behalf
14 of an authority to refund an obligation if 1 of the following
15 applies:

16 (i) The refunding obligation meets both of the following:

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

22 (B) The net present value of the sum of the tax increment
23 revenues described in subdivision (aa) (ii) and the distributions
24 under section 12a to repay the refunding obligation will not be
25 greater than the net present value of the sum of the tax increment
26 revenues described in subdivision (aa) (ii) and the distributions
27 under section 12a to repay the obligation being refunded, as

1 calculated using a method approved by the department of treasury.

2 (ii) The refunding obligation is a tax increment refunding
3 bond issued to refund a refunding bond that is an other protected
4 obligation issued as a capital appreciation bond delivered to the
5 Michigan municipal bond authority on December 21, 1994, or bonds
6 issued to refund that bond, and the authority, by resolution of its
7 board, authorized issuance of the refunding obligation before
8 December 31, 2019 with a final maturity not later than 2039. The
9 municipality by majority vote of the members of its governing body
10 may pledge its full faith and credit for the payment of the
11 principal of and interest on the refunding obligation. A refunding
12 obligation issued under this subparagraph is not subject to the
13 requirements of section 305(2), (3), (5), or (6), 501, 503, or 611
14 of the revised municipal finance act, 2001 PA 34, MCL 141.2305,
15 141.2501, 141.2503, and 141.2611. The duration of the development
16 plan and the tax increment financing plan relating to the refunding
17 obligations described in this subparagraph is extended to 1 year
18 after the final date of maturity of the refunding obligation.

19 (w) "Specific local tax" means a tax levied under 1974 PA 198,
20 MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA
21 255, MCL 207.651 to 207.668, the technology park development act,
22 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181
23 to 211.182. The initial assessed value or current assessed value of
24 property subject to a specific local tax shall be the quotient of
25 the specific local tax paid divided by the ad valorem millage rate.
26 However, after 1993, the state tax commission shall prescribe the
27 method for calculating the initial assessed value and current

1 assessed value of property for which a specific local tax was paid
2 in lieu of a property tax.

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

5 (y) "Tax increment district" or "district" means that area to
6 which the tax increment finance plan pertains.

7 (z) "Tax increment financing plan" means that information and
8 those requirements set forth in sections 13 to 15.

9 (aa) "Tax increment revenues" means the amount of ad valorem
10 property taxes and specific local taxes attributable to the
11 application of the levy of all taxing jurisdictions upon the
12 captured assessed value of real and personal property in the
13 development area, subject to the following requirements:

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

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

1 advances, eligible obligations, and other protected obligations.

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

4 (A) Ad valorem property taxes attributable either to a portion
5 of the captured assessed value shared with taxing jurisdictions
6 within the jurisdictional area of the authority or to a portion of
7 value of property that may be excluded from captured assessed value
8 or specific local taxes attributable to such ad valorem property
9 taxes.

10 (B) Ad valorem property taxes excluded by the tax increment
11 financing plan of the authority from the determination of the
12 amount of tax increment revenues to be transmitted to the authority
13 or specific local taxes attributable to such ad valorem property
14 taxes.

15 (C) Ad valorem property taxes levied under 1 or more of the
16 following or specific local taxes attributable to those ad valorem
17 property taxes:

18 (I) The zoological authorities act, 2008 PA 49, MCL 123.1161
19 to 123.1183.

20 (II) The art institute authorities act, 2010 PA 296, MCL
21 123.1201 to 123.1229.

22 **(III) EXCEPT AS OTHERWISE PROVIDED IN SECTION 3(6), AD VALOREM**
23 **PROPERTY TAXES OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THOSE AD**
24 **VALOREM PROPERTY TAXES LEVIED FOR A SEPARATE MILLAGE FOR PUBLIC**
25 **LIBRARY PURPOSES APPROVED BY THE ELECTORS AFTER DECEMBER 31, 2016.**

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

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

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

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

19 (bb) "Transit-oriented development" means infrastructure
20 improvements that are located within 1/2 mile of a transit station
21 or transit-oriented facility that promotes transit ridership or
22 passenger rail use as determined by the board and approved by the
23 municipality in which it is located.

24 (cc) "Transit-oriented facility" means a facility that houses
25 a transit station in a manner that promotes transit ridership or
26 passenger rail use.

27 Sec. 3. (1) If the governing body of a municipality determines

1 that it is in the best interests of the public to halt a decline in
2 property values, increase property tax valuation, eliminate the
3 causes of the decline in property values, and to promote growth in
4 an area in the municipality, the governing body of that
5 municipality may declare by resolution its intention to create and
6 provide for the operation of an authority.

7 (2) In the resolution of intent, the governing body shall set
8 a date for the holding of a public hearing on the adoption of a
9 proposed resolution creating the authority and designating the
10 boundaries of the authority district. Notice of the public hearing
11 shall be published twice in a newspaper of general circulation in
12 the municipality, not less than 20 nor more than 40 days before the
13 date of the hearing. Notice shall also be mailed to the property
14 taxpayers of record in the proposed authority district not less
15 than 20 days before the hearing. Beginning June 1, 2005, the notice
16 of hearing within the time frame described in this subsection shall
17 be mailed by certified mail to the governing body of each taxing
18 jurisdiction levying taxes that would be subject to capture if the
19 authority is established and a tax increment financing plan is
20 approved. Failure to receive the notice shall not invalidate these
21 proceedings. The notice shall state the date, time, and place of
22 the hearing, and shall describe the boundaries of the proposed
23 authority district. At that hearing, a citizen, taxpayer, or
24 property owner of the municipality has the right to be heard in
25 regard to the establishment of the authority and the boundaries of
26 the proposed authority district. The governing body of the
27 municipality shall not incorporate land into the authority district

1 not included in the description contained in the notice of public
2 hearing, but it may eliminate described lands from the authority
3 district in the final determination of the boundaries.

4 (3) After the public hearing, if the governing body intends to
5 proceed with the establishment of the authority, it shall adopt, by
6 majority vote of its members, a resolution establishing the
7 authority and designating the boundaries of the authority district
8 within which the authority shall exercise its powers. The adoption
9 of the resolution is subject to any applicable statutory or charter
10 provisions with respect to the approval or disapproval by the chief
11 executive or other officer of the municipality and the adoption of
12 a resolution over his or her veto. This resolution shall be filed
13 with the secretary of state promptly after its adoption and shall
14 be published at least once in a newspaper of general circulation in
15 the municipality.

16 (4) The governing body may alter or amend the boundaries of
17 the authority district to include or exclude lands from the
18 authority district in accordance with the same requirements
19 prescribed for adopting the resolution creating the authority.

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

24 (a) Publication of the resolution as adopted.

25 (b) Filing of the resolution with the secretary of state.

26 **(6) IF A SEPARATE MILLAGE FOR PUBLIC LIBRARY PURPOSES WAS**
27 **LEVIED BEFORE JANUARY 1, 2017, AND ALL OBLIGATIONS AND OTHER**

1 PROTECTED OBLIGATIONS OF THE AUTHORITY ARE PAID, THEN THE LEVY IS
2 EXEMPT FROM CAPTURE UNDER THIS ACT, UNLESS THE LIBRARY BOARD OR
3 COMMISSION ALLOWS ALL OR A PORTION OF ITS TAXES LEVIED TO BE
4 INCLUDED AS TAX INCREMENT REVENUES AND SUBJECT TO CAPTURE UNDER
5 THIS ACT UNDER THE TERMS OF A WRITTEN AGREEMENT BETWEEN THE LIBRARY
6 BOARD OR COMMISSION AND THE AUTHORITY. THE WRITTEN AGREEMENT SHALL
7 BE FILED WITH THE CLERK OF THE MUNICIPALITY. HOWEVER, IF A SEPARATE
8 MILLAGE FOR PUBLIC LIBRARY PURPOSES WAS LEVIED BEFORE JANUARY 1,
9 2017, AND THE AUTHORITY ALTERS OR AMENDS THE BOUNDARIES OF THE
10 AUTHORITY DISTRICT OR EXTENDS THE DURATION OF THE EXISTING FINANCE
11 PLAN, THEN THE LIBRARY BOARD OR COMMISSION MAY, NOT LATER THAN 60
12 DAYS AFTER A PUBLIC HEARING IS HELD UNDER THIS SUBSECTION, EXEMPT
13 ALL OR A PORTION OF ITS TAXES FROM CAPTURE BY ADOPTING A RESOLUTION
14 TO THAT EFFECT AND FILING A COPY WITH THE CLERK OF THE MUNICIPALITY
15 THAT CREATED THE AUTHORITY. FOR AD VALOREM PROPERTY TAXES OR
16 SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THOSE AD VALOREM PROPERTY
17 TAXES LEVIED FOR A SEPARATE MILLAGE FOR PUBLIC LIBRARY PURPOSES
18 APPROVED BY THE ELECTORS AFTER DECEMBER 31, 2016, A LIBRARY BOARD
19 OR COMMISSION MAY ALLOW ALL OR A PORTION OF ITS TAXES LEVIED TO BE
20 INCLUDED AS TAX INCREMENT REVENUES AND SUBJECT TO CAPTURE UNDER
21 THIS ACT UNDER THE TERMS OF A WRITTEN AGREEMENT BETWEEN THE LIBRARY
22 BOARD OR COMMISSION AND THE AUTHORITY. THE WRITTEN AGREEMENT SHALL
23 BE FILED WITH THE CLERK OF THE MUNICIPALITY. HOWEVER, IF THE
24 LIBRARY WAS CREATED UNDER SECTION 1 OR 10A OF 1877 PA 164, MCL
25 397.201 AND 397.210A, OR ESTABLISHED UNDER 1869 LA 233, THEN ANY
26 ACTION OF THE LIBRARY BOARD OR COMMISSION UNDER THIS SUBSECTION
27 SHALL HAVE THE CONCURRENCE OF THE CHIEF EXECUTIVE OFFICER OF THE

1 CITY THAT CREATED THE LIBRARY TO BE EFFECTIVE.