

# SENATE BILL No. 619

November 10, 2015, Introduced by Senators BRANDENBURG, KOWALL and MARLEAU and referred to the Committee on Finance.

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.

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

10       (i) For valuations made before January 1, 1995, the state

1 equalized valuation as determined under the general property tax  
2 act, 1893 PA 206, MCL 211.1 to 211.155.

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

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

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

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

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

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

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

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

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

1           (k) "Development program" means the implementation of the  
2 development plan.

3           (l) "Eligible advance" means an advance made before August 19,  
4 1993.

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

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

24           (ii) For taxes levied after June 30, 2005 and before July 1,  
25 2006, \$3,000,000.00.

26           (iii) For taxes levied after June 30, 2006 and before July 1,  
27 2007, \$3,000,000.00.

1 (iv) For taxes levied after June 30, 2007 and before July 1,  
2 2008, \$3,000,000.00.

3 (v) For taxes levied after June 30, 2008 and before July 1,  
4 2009, \$3,000,000.00.

5 (vi) For taxes levied after June 30, 2009 and before July 1,  
6 2010, \$3,000,000.00.

7 (vii) For taxes levied after June 30, 2010 and before July 1,  
8 2011, \$2,650,000.00.

9 (viii) For taxes levied after June 30, 2011 and before July 1,  
10 2012, \$2,400,000.00.

11 (ix) For taxes levied after June 30, 2012 and before July 1,  
12 2013, \$2,125,000.00.

13 (x) For taxes levied after June 30, 2013 and before July 1,  
14 2014, \$1,500,000.00.

15 (xi) For taxes levied after June 30, 2014 and before July 1,  
16 2015, \$1,150,000.00.

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

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

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

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

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

7 (q) "Municipality" means a city.

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

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

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

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

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

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

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

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

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

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

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

23 (t) "Other protected obligation" means:

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

1 issued to refund an obligation described in this subparagraph.

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

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

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

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

1 August 19, 1993.

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

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

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

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

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

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

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

26 (A) The obligation is a contract of lease originally executed  
27 on December 20, 1994 between the municipality and the authority to



1 partially implement the authority's development plan and tax  
2 increment financing plan.

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

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

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

24 (ii) The acquisition and disposal of real and personal  
25 property or interests in real and personal property, demolition of  
26 structures, site preparation, relocation costs, building  
27 rehabilitation, and all associated administrative costs, including,

1 but not limited to, architect's, engineer's, legal, and accounting  
2 fees as contained in the resolution establishing the district's  
3 development plan.

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

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

14 (i) 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 (aa) (ii) and the distributions  
22 under section 12a to repay the refunding obligation will not be  
23 greater than the net present value of the sum of the tax increment  
24 revenues described in subdivision (aa) (ii) and the distributions  
25 under section 12a to repay the obligation being refunded, as  
26 calculated using a method approved by the department of treasury.

27 (ii) The refunding obligation is a tax increment refunding

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

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

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

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

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

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

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

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

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

1 following:

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

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

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

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

18 (II) The art institute authorities act, 2010 PA 296, MCL  
19 123.1201 to 123.1229.

20 **(III) EXCEPT AS OTHERWISE PROVIDED IN SECTION 3(6), AD VALOREM**  
21 **PROPERTY TAXES OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THOSE AD**  
22 **VALOREM PROPERTY TAXES LEVIED FOR A SEPARATE MILLAGE FOR PUBLIC**  
23 **LIBRARY PURPOSES APPROVED BY THE ELECTORS AFTER DECEMBER 31, 2015.**

24 (iv) The amount of tax increment revenues authorized to be  
25 included under subparagraph (ii), and required to be transmitted to  
26 the authority under section 14(1), from ad valorem property taxes  
27 and specific local taxes attributable to the application of the

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

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

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

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

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

25 Sec. 3. (1) If the governing body of a municipality determines  
26 that it is in the best interests of the public to halt a decline in  
27 property values, increase property tax valuation, eliminate the

1 causes of the decline in property values, and to promote growth in  
2 an area in the municipality, the governing body of that  
3 municipality may declare by resolution its intention to create and  
4 provide for the operation of an authority.

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

1 district in the final determination of the boundaries.

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

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

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

22 (a) Publication of the resolution as adopted.

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

24 (6) IF A LIBRARY BOARD OR COMMISSION LEVIES A SEPARATE MILLAGE  
25 FOR PUBLIC LIBRARY PURPOSES THAT WAS LEVIED BEFORE JANUARY 1, 2016,  
26 AND ALL OBLIGATIONS AND OTHER PROTECTED OBLIGATIONS OF THE  
27 AUTHORITY ARE PAID OR DEFEASED, THEN THE LEVY IS EXEMPT FROM



1    CAPTURE UNDER THIS ACT, UNLESS THE LIBRARY BOARD OR COMMISSION  
2    ALLOWS ALL OR A PORTION OF ITS TAXES LEVIED TO BE INCLUDED AS TAX  
3    INCREMENT REVENUES AND SUBJECT TO CAPTURE UNDER THIS ACT UNDER THE  
4    TERMS OF A WRITTEN AGREEMENT BETWEEN THE LIBRARY BOARD OR  
5    COMMISSION AND THE AUTHORITY. THE WRITTEN AGREEMENT SHALL BE FILED  
6    WITH THE CLERK OF THE MUNICIPALITY. HOWEVER, IF A LIBRARY BOARD OR  
7    COMMISSION LEVIES A SEPARATE MILLAGE FOR PUBLIC LIBRARY PURPOSES  
8    THAT WAS LEVIED BEFORE JANUARY 1, 2016, AND THE AUTHORITY ALTERS OR  
9    AMENDS THE BOUNDARIES OF THE AUTHORITY DISTRICT OR EXTENDS THE  
10   DURATION OF THE EXISTING FINANCE PLAN, THEN THE LIBRARY BOARD OR  
11   COMMISSION MAY, NOT LATER THAN 60 DAYS AFTER A PUBLIC HEARING IS  
12   HELD UNDER THIS SUBSECTION, EXEMPT ALL OR A PORTION OF ITS TAXES  
13   FROM CAPTURE BY ADOPTING A RESOLUTION TO THAT EFFECT AND FILING A  
14   COPY WITH THE CLERK OF THE MUNICIPALITY THAT CREATED THE AUTHORITY.  
15   FOR AD VALOREM PROPERTY TAXES OR SPECIFIC LOCAL TAXES ATTRIBUTABLE  
16   TO THOSE AD VALOREM PROPERTY TAXES LEVIED FOR A SEPARATE MILLAGE  
17   FOR PUBLIC LIBRARY PURPOSES APPROVED BY THE ELECTORS AFTER DECEMBER  
18   31, 2015, A LIBRARY BOARD OR COMMISSION MAY ALLOW ALL OR A PORTION  
19   OF ITS TAXES LEVIED TO BE INCLUDED AS TAX INCREMENT REVENUES AND  
20   SUBJECT TO CAPTURE UNDER THIS ACT UNDER THE TERMS OF A WRITTEN  
21   AGREEMENT BETWEEN THE LIBRARY BOARD OR COMMISSION AND THE  
22   AUTHORITY. THE WRITTEN AGREEMENT SHALL BE FILED WITH THE CLERK OF  
23   THE MUNICIPALITY.