

RECODIFIED TAX INCREMENT FINANCING ACT (EXCERPT)
Act 57 of 2018

125.4404 Resolution of intent to create and provide for operation of authority; notice of public hearing; hearing; resolution exempting taxes from capture; action of library board or commission; resolution establishing authority and designating boundaries; filing and publication; alteration or amendment of boundaries; validity of proceedings; establishment of authority by 2 or more municipalities; procedures to be followed by Next Michigan development corporation.

Sec. 404. (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 or a certified alternative energy 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. If a separate millage for public library purposes was levied before January 1, 2017, and all obligations and other protected obligations of the authority are paid, then the levy is exempt from capture under this part, unless the library board or commission allows all or a portion of its taxes levied to be included as tax increment revenues and subject to capture under this part under the terms of a written agreement between the library board or commission and the authority. The written agreement shall be filed with the clerk of the municipality. However, if a separate millage for public library purposes was levied before January 1, 2017, and the authority alters or amends the boundaries of the authority district or extends the duration of the existing finance plan, then the library board or commission may, not later than 60 days after a public hearing is held under this subsection, exempt all or a portion of its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality that created the authority. For ad valorem property taxes or specific local taxes attributable to those ad valorem property taxes levied for a separate millage for public library purposes approved by the electors after December 31, 2016, a library board or commission may allow all or a portion of its taxes levied to be included as tax increment revenues and subject to capture under this part under the terms of a written agreement between the library board or commission and the authority. The written agreement shall be filed with the clerk of the municipality. However, if the library was created under section 1 or 10a of 1877 PA 164, MCL 397.201 and 397.210a, or established under 1869 LA 233, then any action of the library board or commission under this subsection shall have the concurrence of the chief executive officer of the city that created the library to be effective.

(4) Except as otherwise provided in subsection (8), not less than 60 days after the public hearing or a shorter period as determined by the governing body for a certified technology park or a certified alternative energy park, 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 403(2), each municipality in which the authority district will be located shall comply with the procedures prescribed by this part. 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 403(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 403(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 403(3) if so provided in a resolution of the authority established under section 403(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 403(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 403(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.

History: 2018, Act 57, Eff. Jan. 1, 2019.