

HOUSE BILL No. 5852

September 8, 2016, Introduced by Reps. Theis, Chatfield, Somerville, Price and Maturen and referred to the Committee on Local Government.

A bill to amend 2008 PA 94, entitled "Water resource improvement tax increment finance authority act," by amending sections 3, 10, 16, and 23 (MCL 125.1773, 125.1780, 125.1786, and 125.1793), sections 3 and 10 as amended by 2013 PA 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Operations" means office maintenance, including salaries
3 and expenses of employees, office supplies, consultation fees,
4 design costs, and other expenses incurred in the daily management
5 of the authority and planning of its activities.

6 (b) "Parcel" means an identifiable unit of land that is
7 treated as separate for valuation or zoning purposes.

8 (c) "Public facility" means a street, and any improvements to
9 a street, including street furniture and beautification, park,

1 parking facility, recreational facility, right-of-way, structure,
2 waterway, bridge, lake, pond, canal, utility line or pipe, or
3 building, including access routes designed and dedicated to use by
4 the public generally, or used by a public agency, that is related
5 to access to inland lakes or a water resource improvement, or means
6 a water resource improvement. Public facility includes an
7 improvement to a facility used by the public or a public facility
8 as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351,
9 if the improvement complies with the barrier free design
10 requirements of the state construction code promulgated under the
11 Stille-DeRossett-Hale single state construction code act, 1972 PA
12 230, MCL 125.1501 to 125.1531.

13 (d) "Specific local tax" means a tax levied under 1974 PA 198,
14 MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA
15 255, MCL 207.651 to 207.668, the technology park development act,
16 1984 PA 385, MCL 207.701 to 207.718, **SECTION 5 OF THE STATE**
17 **ESSENTIAL SERVICES ASSESSMENT ACT, 2014 PA 92, MCL 211.1055,**
18 **SECTION 5 OF THE ALTERNATIVE STATE ESSENTIAL SERVICES ASSESSMENT**
19 **ACT, 2014 PA 93, MCL 211.1075,** or 1953 PA 189, MCL 211.181 to
20 211.182. The initial assessed value or current assessed value of
21 property subject to a specific local tax shall be the quotient of
22 the specific local tax paid divided by the ad valorem millage rate.
23 The state tax commission shall prescribe the method for calculating
24 the initial assessed value and current assessed value of property
25 for which a specific local tax was paid in lieu of a property tax.
26 (e) "State fiscal year" means the annual period commencing
27 October 1 of each year.

1 (f) "Tax increment revenues" means the amount of ad valorem
2 property taxes and specific local taxes attributable to the
3 application of the levy of all taxing jurisdictions upon the
4 captured assessed value of real and personal property in the
5 development area. Tax increment revenues do not include any of the
6 following:

7 (i) Taxes under the state education tax act, 1993 PA 331, MCL
8 211.901 to 211.906.

9 (ii) Taxes levied by local or intermediate school districts.

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

16 (iv) Ad valorem property taxes excluded by the tax increment
17 financing plan of the authority from the determination of the
18 amount of tax increment revenues to be transmitted to the authority
19 or specific local taxes attributable to the ad valorem property
20 taxes.

21 (v) Ad valorem property taxes exempted from capture under
22 section 15(5) or specific local taxes attributable to the ad
23 valorem property taxes.

24 (vi) Ad valorem property taxes specifically levied for the
25 payment of principal and interest of obligations approved by the
26 electors or obligations pledging the unlimited taxing power of the
27 local governmental unit or specific taxes attributable to those ad

1 valorem property taxes.

2 (vii) AD VALOREM PROPERTY TAXES OR SPECIFIC LOCAL TAXES LEVIED
3 FOR A MILLAGE APPROVED BY THE ELECTORS AFTER DECEMBER 31, 2016,
4 EXCEPT FOR 1 OR MORE OF THE FOLLOWING:

5 (A) A MILLAGE APPROVED BY THE ELECTORS UNDER SECTION 34D(11)
6 OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.34D.

7 (B) A RENEWAL OF A MILLAGE THAT WAS AUTHORIZED ON OR BEFORE
8 DECEMBER 31, 2016.

9 (g) "Water resource improvement" means enhancement of water
10 quality and water dependent natural resources, including, but not
11 limited to, the following:

12 (i) The elimination of the causes and the proliferation of
13 aquatic nuisance species, as defined in section 3101 of the natural
14 resources and environmental protection act, 1994 PA 451, MCL
15 324.3101.

16 (ii) Sewer systems that service existing structures that have
17 failing on-site disposal systems.

18 (iii) Storm water systems that service existing
19 infrastructure.

20 (iv) Dredging, removal of spoils, or other improvements or
21 maintenance activities that enhance navigability of a waterway.

22 (h) "Water resource improvement district" or "district" means
23 1 or more of the following:

24 (i) An inland body of water and land that is up to 1 mile from
25 the shoreline of an inland lake that contains 1 or more public
26 access points.

27 (ii) An inland body of water and parcels of land that are

1 contiguous to the shoreline of an inland lake that does not contain
2 a public access point.

3 (iii) The shoreline of a harbor on a Great Lake and 1 or more
4 of the following:

5 (A) Land up to 1 mile from the shoreline of the harbor.

6 (B) A tributary to that Great Lake harbor up to 5 miles
7 upstream from the shoreline of the Great Lake harbor.

8 (C) Land up to 1 mile from each bank of the tributary
9 described in sub-subparagraph (B).

10 Sec. 10. (1) The board may do any of the following:

11 (a) Prepare an analysis of water resource improvement and
12 access to inland lakes issues taking place in the development area.

13 (b) Study and analyze the need for water resource improvements
14 and access to inland lakes upon the development area.

15 (c) Plan and propose the construction, renovation, repair,
16 remodeling, rehabilitation, restoration, preservation, or
17 reconstruction of a public facility that may be necessary or
18 appropriate to the execution of a plan that, in the opinion of the
19 board, aids in water resource improvement or access to inland lakes
20 in the development area. The board is encouraged to develop a plan
21 that conserves the natural features, reduces impervious surfaces,
22 and uses landscaping and natural features to reflect the
23 predevelopment site.

24 (d) Plan, propose, and implement an improvement to a public
25 facility within the development area to comply with the barrier
26 free design requirements of the state construction code promulgated
27 under the Stille-DeRossett-Hale single state construction code act,

1 1972 PA 230, MCL 125.1501 to 125.1531.

2 (e) Develop long-range plans for water resource improvement
3 and access to inland lakes within the district.

4 (f) Implement any plan of development for water resource
5 improvement and access to inland lakes in the development area
6 necessary to achieve the purposes of this act in accordance with
7 the powers of the authority granted by this act.

8 (g) Make and enter into contracts necessary or incidental to
9 the exercise of its powers and the performance of its duties.

10 (h) Acquire by purchase or otherwise, on terms and conditions
11 and in a manner the authority considers proper or own, convey, or
12 otherwise dispose of, or lease as lessor or lessee, land and other
13 property, real or personal, or rights or interests in the property,
14 that the authority determines is reasonably necessary to achieve
15 the purposes of this act, and to grant or acquire licenses,
16 easements, and options.

17 (i) Improve land and construct, reconstruct, rehabilitate,
18 restore and preserve, equip, clear, improve, maintain, and repair
19 any public facility, building, and any necessary or desirable
20 appurtenances to those buildings and operate a water resource
21 improvement, as determined by the authority to be reasonably
22 necessary to achieve the purposes of this act, within the
23 development area for the use, in whole or in part, of any public or
24 private person or corporation, or a combination thereof.

25 (j) Fix, charge, and collect fees, rents, and charges for the
26 use of any facility, building, or property under its control or any
27 part of the facility, building, or property, and pledge the fees,

1 rents, and charges for the payment of revenue bonds issued by the
2 authority.

3 (k) Lease, in whole or in part, any facility, building, or
4 property under its control.

5 (l) Accept grants and donations of property, labor, or other
6 things of value from a public or private source.

7 (m) Acquire and construct public facilities.

8 (n) Plan and implement water resource improvements in harbors
9 of the Great Lakes and their tributaries, including, but not
10 limited to, dredging, removal of spoils, and other improvements or
11 maintenance activities that enhance navigability of a waterway.

12 (2) The board shall prepare a water resource management plan
13 in consultation with the department of environmental quality, the
14 department of natural resources, or any other entity with expertise
15 in water quality management and invasive species management.

16 (3) The board may apply for the necessary state and federal
17 permits required for a public facility or a water resource
18 improvement under this act.

19 **(4) THE MUNICIPALITY CREATING THE AUTHORITY SHALL ENSURE THAT**
20 **A WEBSITE IS CREATED, OPERATED, AND REGULARLY MAINTAINED WITH ALL**
21 **AUTHORITY RECORDS AND DOCUMENTS, FOR THE IMMEDIATELY PRECEDING 5**
22 **FISCAL YEARS, INCLUDING ALL OF THE FOLLOWING:**

23 **(A) MINUTES OF ALL BOARD MEETINGS.**

24 **(B) ANNUAL BUDGET.**

25 **(C) ANNUAL AUDITS.**

26 **(D) CURRENTLY ADOPTED DEVELOPMENT PLAN.**

27 **(E) CURRENTLY ADOPTED TAX INCREMENT FINANCE PLAN.**

1 (F) LIST OF ALL AUTHORITY SPONSORED AND MANAGED EVENTS.

2 (G) CURRENT AUTHORITY STAFF CONTACT INFORMATION.

3 (H) ALL PROMOTIONAL AND MARKETING MATERIALS.

4 (I) AMOUNT OF TAX INCREMENT REVENUES CAPTURED FOR EACH TAXING
5 JURISDICTION THAT LEVIES AD VALOREM PROPERTY TAXES OR SPECIFIC
6 LOCAL TAXES WITHIN THE BOUNDARIES OF THE AUTHORITY.

7 (J) CURRENT CONTRACTS AND OTHER DOCUMENTS RELATED TO
8 MANAGEMENT OF THE AUTHORITY.

9 (5) SUBJECT TO SUBSECTION (6), THE REQUIREMENTS IN SUBSECTION
10 (4) ARE REQUIRED FOR RECORDS AND DOCUMENTS RELATED TO FISCAL YEARS
11 STARTING THE FISCAL YEAR OF THE DATE OF ENACTMENT OF THE AMENDATORY
12 ACT THAT ADDED THIS SUBSECTION.

13 (6) THE RECORDS AND DOCUMENTS DESCRIBED IN SUBSECTION (4) (F),
14 (G), (H), AND (J) SHALL BE REQUIRED FOR 2 FISCAL YEARS IMMEDIATELY
15 PRECEDING THE DATE OF ENACTMENT OF THE AMENDATORY ACT THAT ADDED
16 THIS SUBSECTION.

17 (7) THE REQUIREMENTS OF THIS SECTION SHALL NOT TAKE EFFECT
18 UNTIL 60 DAYS AFTER THE END OF AN AUTHORITY'S CURRENT FISCAL YEAR
19 AS OF THE DATE OF ENACTMENT OF THE AMENDATORY ACT THAT ADDED THIS
20 SUBSECTION.

21 (8) EACH YEAR, THE BOARD SHALL HOLD NOT FEWER THAN 1
22 INFORMATIONAL MEETING. THE PURPOSE OF THE INFORMATIONAL MEETING
23 WILL BE TO HIGHLIGHT THE INFORMATION DESCRIBED IN SUBSECTION (4) (A)
24 TO (J). NOTICE OF AN INFORMATIONAL MEETING SHALL BE POSTED ON THE
25 MUNICIPALITY'S OR AUTHORITY'S WEBSITE NOT LESS THAN 20 DAYS BEFORE
26 THE DATE OF THE INFORMATIONAL MEETING. NOT LESS THAN 20 DAYS BEFORE
27 THE INFORMATIONAL MEETING, THE BOARD SHALL MAIL NOTICE OF THE

1 **INFORMATIONAL MEETING TO THE GOVERNING BODY OF EACH TAXING**
2 **JURISDICTION LEVYING TAXES THAT ARE SUBJECT TO CAPTURE BY THE**
3 **AUTHORITY.**

4 Sec. 16. (1) The municipal and county treasurers shall
5 transmit tax increment revenues to the authority.

6 (2) The authority shall expend the tax increment revenues
7 received for the development program only under the terms of the
8 tax increment financing plan. Unused funds shall revert
9 proportionately to the respective taxing bodies. Tax increment
10 revenues shall not be used to circumvent existing property tax
11 limitations. The governing body of the municipality may abolish the
12 tax increment financing plan if it finds that the purposes for
13 which it was established are accomplished. However, the tax
14 increment financing plan shall not be abolished, **BE ALLOWED TO**
15 **EXPIRE, OR OTHERWISE TERMINATE** until the principal of, and interest
16 on, bonds issued under section 17 have been paid or funds
17 sufficient to make the payment have been segregated.

18 (3) Annually the authority shall submit to the governing body
19 of the municipality, **THE GOVERNING BODY OF A TAXING UNIT LEVYING**
20 **TAXES SUBJECT TO CAPTURE BY AN AUTHORITY**, and the state tax
21 commission a report on the status of the tax increment financing
22 account. **THE REPORT SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL**
23 **CIRCULATION IN THE MUNICIPALITY OR ON A WEBSITE OF THE AUTHORITY OR**
24 **THE MUNICIPALITY.** The report shall include the following:

- 25 (a) The amount and source of revenue in the account.
26 (b) The amount in any bond reserve account.
27 (c) The amount and purpose of expenditures from the account.

1 (d) The amount of principal and interest on any outstanding
2 bonded indebtedness.

3 (e) The initial assessed value of the ~~project~~ **DEVELOPMENT**
4 area.

5 (f) The captured assessed value retained by the authority.

6 (g) The tax increment revenues received.

7 (h) The number of public facilities developed.

8 (i) The number of water resource improvements made.

9 (j) A brief description of each water resource improvement
10 made within the district.

11 **(K) THE TOTAL NEW PUBLIC INVESTMENT BY THE AUTHORITY IN EACH**
12 **OF THE DEVELOPMENT AREAS.**

13 **(l) THE TOTALS RECEIVED BY THE AUTHORITY OR CONTRIBUTIONS MADE**
14 **BY SPONSORSHIPS, CASH, AND IN-KIND SERVICES FOR EVENTS, PROGRAMS,**
15 **AND PROJECTS WITHIN EACH DEVELOPMENT AREA.**

16 **(M) THE AMOUNTS OF ANY FUNDS OTHER THAN TAX INCREMENTS**
17 **REVENUES USED BY THE AUTHORITY FOR ANY PROJECTS OR ACTIVITIES IN**
18 **THE DEVELOPMENT AREAS.**

19 **(N) THE CURRENT ASSESSED VALUE OF THE DEVELOPMENT AREA.**

20 **(O) THE CAPTURED ASSESSED VALUE RETAINED BY THE AUTHORITY FOR**
21 **EACH TAXING JURISDICTION.**

22 **(P) THE AMOUNT OF TAX INCREMENT REVENUES USED FOR THE**
23 **OPERATION OF THE AUTHORITY.**

24 **(Q) ~~(*)~~Any additional information the governing body**
25 **considers necessary.**

26 **(4) TAX INCREMENT REVENUES SHALL BE EXPENDED WITHIN 5 YEARS OF**
27 **THEIR RECEIPT. HOWEVER, TAX INCREMENT REVENUES MAY BE ACCUMULATED**

1 FOR A PERIOD LONGER THAN 5 YEARS, PROVIDED THE TAX INCREMENT
2 FINANCING PLAN SPECIFICALLY PROVIDES FOR ALL OF THE FOLLOWING:

3 (A) THE REASONS FOR ACCUMULATING THOSE FUNDS.

4 (B) A TIME FRAME WHEN THE FUND WILL BE EXPENDED.

5 (C) THE USES FOR WHICH THE FUND WILL BE EXPENDED.

6 Sec. 23. (1) The state tax commission may institute
7 proceedings to compel enforcement of this act AND MAY SEND WRITTEN
8 NOTIFICATION TO AN AUTHORITY FAILING TO COMPLY WITH THIS ACT AND
9 THE GOVERNING BODY OF THE MUNICIPALITY THAT ESTABLISHED THE
10 AUTHORITY OF A VIOLATION OF ANY PROVISION OF THIS ACT.

11 (2) The state tax commission may promulgate rules necessary
12 for the administration of this act under the administrative
13 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

14 (3) IF THE STATE TAX COMMISSION NOTIFIES AN AUTHORITY IN
15 WRITING THAT THE AUTHORITY FAILED TO COMPLY WITH ANY PROVISION OF
16 THIS ACT, THAT AUTHORITY SHALL NOT CAPTURE ANY TAX INCREMENT
17 REVENUES THAT ARE IN EXCESS OF AMOUNTS NECESSARY TO PAY BONDED
18 INDEBTEDNESS OR OTHER OBLIGATIONS FOR THE PERIOD OF NONCOMPLIANCE
19 AS DETERMINED BY THE STATE TAX COMMISSION. ANY EXCESS FUNDS
20 CAPTURED SHALL BE RETURNED TO THE TAXING JURISDICTION FROM WHICH
21 THEY WERE CAPTURED AS PROVIDED IN SECTION 16(2).