



# HOUSE BILL No. 5073

September 19, 1995, Introduced by Reps. Agee, Pitoniak, Anthony, Cherry, Ciaramitaro, LaForge, Martinez, DeMars, Price, Baird, Schroer, Kelly, Profit, Gernaat, Wetters, DeHart, Tesanovich, Prusi, Dobronski, Brater, Alley, Law, Freeman, Gire, Goschka, Voorhees, Scott, Hanley, Parks, Stallworth, Wallace and Murphy and referred to the Committee on Local Government.

A bill to amend sections 2 and 14 of Act No. 281 of the Public Acts of 1986, entitled as amended "The local development financing act," section 2 as amended by Act No. 331 of the Public Acts of 1994 and section 14 as amended by Act No. 333 of the Public Acts of 1993, being sections 125.2152 and 125.2164 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 2 and 14 of Act No. 281 of the Public  
2 Acts of 1986, section 2 as amended by Act No. 331 of the Public  
3 Acts of 1994 and section 14 as amended by Act No. 333 of the  
4 Public Acts of 1993, being sections 125.2152 and 125.2164 of the  
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 2. As used in this act:

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

8 (b) "Authority" means a local development finance authority  
9 created pursuant to this act.

10 (c) "Authority district" means an area or areas within which  
11 an authority exercises its powers.

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

13 (e) "Captured assessed value" means the amount in any 1 year  
14 by which the current assessed value, as equalized, of the eligi-  
15 ble property identified in the tax increment financing plan,  
16 including the current assessed value of property for which spe-  
17 cific local taxes are paid in lieu of property taxes as deter-  
18 mined pursuant to subdivision (u), exceeds the initial assessed  
19 value. The state tax commission shall prescribe the method for  
20 calculating captured assessed value.

21 (f) "Certified industrial park" means an area of land desig-  
22 nated by the department of commerce as meeting all of the follow-  
23 ing requirements:

24 (i) It contains not less than 40 acres of land.

25 (ii) It is zoned exclusively for use for eligible property.

26 (iii) It has a site plan or plat approved by the city,  
27 village, or township in which the land is located.

1 (iv) The developer of the land agrees to comply with other  
2 requirements, not inconsistent with subparagraphs (i) to (iii),  
3 imposed upon property classified as a certified industrial park  
4 by the department of commerce under the certified industrial park  
5 program. Compliance with these other requirements is not a pre-  
6 requisite to meeting the requirement of this subparagraph.

7 (g) "Chief executive officer" means the mayor or city man-  
8 ager of a city, the president of a village, or, for other local  
9 units of government or school districts, the person charged by  
10 law with the supervision of the functions of the local unit of  
11 government or school district.

12 (h) "Development plan" means that information and those  
13 requirements for a development set forth in section 15.

14 (i) "Development program" means the implementation of a  
15 development plan.

16 (j) "Eligible advance" means an advance made before  
17 August 19, 1993.

18 (k) "Eligible obligation" means EITHER an obligation issued  
19 or incurred by an authority or by a municipality on behalf of an  
20 authority before August 19, 1993 OR AN OBLIGATION ISSUED OR  
21 INCURRED BY AN AUTHORITY OR BY A MUNICIPALITY ON BEHALF OF AN  
22 AUTHORITY TO REFUND A BOND OR NOTE THAT WAS ISSUED OR INCURRED  
23 UNDER THIS ACT BEFORE AUGUST 19, 1993.

24 (l) "Eligible property" means land improvements, buildings,  
25 structures, and other real property, and machinery, equipment,  
26 furniture, and fixtures, or any part or accessory thereof whether  
27 completed or in the process of construction comprising an

1 integrated whole, located within an authority district, of which  
2 the primary purpose and use is 1 of the following:

3 (i) The manufacture of goods or materials or the processing  
4 of goods or materials by physical or chemical change.

5 (ii) Agricultural processing.

6 (iii) A high technology activity that has as its primary  
7 purpose research, product development, engineering, laboratory  
8 testing, or development of industrial technology. This subpara-  
9 graph applies only to eligible property for which a tax increment  
10 financing plan or development plan is adopted and bonds are  
11 issued under this act before January 1, 1993.

12 (iv) The production of energy by the processing of goods or  
13 materials by physical or chemical change by a small power produc-  
14 tion facility as defined by the federal energy regulatory commis-  
15 sion pursuant to the public utility regulatory policies act of  
16 1978, Public Law 95-617, 92 Stat. 3117, which facility is fueled  
17 primarily by biomass or wood waste. This act does not affect a  
18 person's rights or liabilities under law with respect to ground-  
19 water contamination described in this subparagraph. This sub-  
20 paragraph applies only if all of the following requirements are  
21 met:

22 (A) Tax increment revenues captured from the eligible prop-  
23 erty will be used to finance, or will be pledged for debt service  
24 on tax increment bonds used to finance, a public facility in or  
25 near the authority district designed to reduce, eliminate, or  
26 prevent the spread of identified soil and groundwater  
27 contamination, pursuant to law.

1 (B) The board of the authority exercising powers within the  
2 authority district where the eligible property is located adopted  
3 an initial tax increment financing plan between January 1, 1991  
4 and May 1, 1991.

5 (C) The municipality that created the authority establishes  
6 a special assessment district whereby not less than 50% of the  
7 operating expenses of the public facility described in this sub-  
8 paragraph will be paid for by special assessments. Not less than  
9 50% of the amount specially assessed against all parcels in the  
10 special assessment district shall be assessed against parcels  
11 owned by parties potentially responsible for the identified  
12 groundwater contamination pursuant to law.

13 (m) "Fiscal year" means the fiscal year of the authority.

14 (n) "Governing body" means the elected body having legisla-  
15 tive powers of a municipality creating an authority under this  
16 act.

17 (o) "Initial assessed value" means the assessed value, as  
18 equalized, of the eligible property identified in the tax incre-  
19 ment financing plan at the time the resolution establishing the  
20 tax increment financing plan is approved as shown by the most  
21 recent assessment roll for which equalization has been completed  
22 at the time the resolution is adopted. Property exempt from tax-  
23 ation at the time of the determination of the initial assessed  
24 value shall be included as zero. Property for which a specific  
25 local tax is paid in lieu of property tax shall not be considered  
26 exempt from taxation. The initial assessed value of property for

1 which a specific local tax was paid in lieu of property tax shall  
2 be determined as provided in subdivision (u).

3 (p) "Municipality" means a city, village, or urban  
4 township.

5 (q) "Obligation" means a written promise to pay, whether  
6 evidenced by a contract, agreement, lease, sublease, bond, or  
7 note, or a requirement to pay imposed by law. An obligation does  
8 not include a payment required solely because of default upon an  
9 obligation, employee salaries, or consideration paid for the use  
10 of municipal offices. Obligation includes, but is not limited  
11 to, the following:

12 (i) A requirement to pay proceeds derived from ad valorem  
13 property taxes or taxes levied in lieu of ad valorem property  
14 taxes.

15 (ii) A management contract or a contract for professional  
16 services.

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

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

23 (v) A letter of credit, paying agent, transfer agent, bond  
24 registrar, or trustee fee associated with a contract, agreement,  
25 bond, or note.

26 (r) "On behalf of an authority", in relation to an eligible  
27 advance made or an eligible obligation issued or incurred by a

1 municipality, means in anticipation that an authority would  
2 transfer tax increment revenues or reimburse the municipality  
3 from tax increment revenues in an amount sufficient to fully make  
4 payment required by the eligible obligation issued or incurred by  
5 the municipality, if the anticipation of the transfer or receipt  
6 of tax increment revenues from the authority is pursuant to or  
7 evidenced by 1 or more of the following:

8 (i) A reimbursement agreement between the municipality and  
9 an authority it established.

10 (ii) A requirement imposed by law that the authority trans-  
11 fer tax increment revenues to the municipality.

12 (iii) A resolution of the authority agreeing to make pay-  
13 ments to the incorporating unit.

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

16 (s) "Other protected obligation" means:

17 (i) An obligation issued to refund a bond or note ~~that is~~  
18 ~~an eligible obligation~~ DESCRIBED IN SUBPARAGRAPH (ii) OR (iii).

19 (ii) An obligation issued or incurred by an authority or by  
20 a municipality on behalf of an authority after August 19, 1993,  
21 but before December 31, 1994, to finance a project described in a  
22 tax increment finance plan approved by the municipality in  
23 accordance with this act before August 19, 1993, for which a con-  
24 tract for final design is entered into by the municipality or  
25 authority before March 1, 1994.

26 (iii) An obligation incurred by an authority or municipality  
27 after August 19, 1993, to reimburse a party to a development

1 agreement entered into by a municipality or authority before  
2 August 19, 1993, for a project described in a tax increment  
3 financing plan approved in accordance with this act before  
4 August 19, 1993, and undertaken and installed by that party in  
5 accordance with the development agreement.

6 (t) "Public facility" means 1 or more of the following:

7 (i) A street, road, bridge, sewer, sewage treatment facili-  
8 ty, facility designed to reduce, eliminate, or prevent the spread  
9 of identified soil or groundwater contamination, drainage system,  
10 waterway, waterline, water storage facility, rail line, utility  
11 line or pipeline, or other similar or related structure or  
12 improvement, together with necessary easements for the structure  
13 or improvement, owned or used by a public agency or functionally  
14 connected to similar or supporting facilities owned or used by a  
15 public agency, or designed and dedicated to use by, for the bene-  
16 fit of, or for the protection of the health, welfare, or safety  
17 of the public generally, whether or not used by a single business  
18 entity, provided that any road, street, or bridge shall be con-  
19 tinuously open to public access and that other facilities shall  
20 be located in public easements or rights-of-way and sized to  
21 accommodate reasonably foreseeable development of eligible prop-  
22 erty in adjoining areas.

23 (ii) The acquisition and disposal of real and personal prop-  
24 erty or an interest in that property, demolition of structures,  
25 site preparation, relocation costs, building rehabilitation, and  
26 all administrative costs related to a public facility, including,  
27 but not limited to, architect's, engineer's, legal, and



1 accounting fees as contained in the resolution establishing the  
2 district's development plan.

3 (iii) An improvement to a facility used by the public or a  
4 public facility as those terms are defined in section 1 of Act  
5 No. 1 of the Public Acts of 1966, being section 125.1351 of the  
6 Michigan Compiled Laws, which improvement is made to comply with  
7 the barrier free design requirements of the state construction  
8 code promulgated under the state construction code act of 1972,  
9 Act No. 230 of the Public Acts of 1972, being sections 125.1501  
10 to 125.1531 of the Michigan Compiled Laws.

11 (u) "Specific local taxes" means a tax levied under Act  
12 No. 198 of the Public Acts of 1974, being sections 207.551 to  
13 ~~207.571~~ 207.572 of the Michigan Compiled Laws, the commercial  
14 redevelopment act, Act No. 255 of the Public Acts of 1978, being  
15 sections 207.651 to 207.668 of the Michigan Compiled Laws, the  
16 enterprise zone act, Act No. 224 of the Public Acts of 1985,  
17 being sections 125.2101 to ~~125.2122~~ 125.2123 of the Michigan  
18 Compiled Laws, Act No. 189 of the Public Acts of 1953, being sec-  
19 tions 211.181 to 211.182 of the Michigan Compiled Laws, and the  
20 technology park development act, Act No. 385 of the Public Acts  
21 of 1984, being sections 207.701 to 207.718 of the Michigan  
22 Compiled Laws. The initial assessed value or current assessed  
23 value of property subject to a specific local tax is the quotient  
24 of the specific local tax paid divided by the ad valorem millage  
25 rate. However, after 1993, the state tax commission shall pre-  
26 scribe the method for calculating the initial assessed value and

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

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

5 (w) "Tax increment revenues" means the amount of ad valorem  
6 property taxes and specific local taxes attributable to the  
7 application of the levy of all taxing jurisdictions upon the cap-  
8 ture assessed value of real and personal property in the develop-  
9 ment area, subject to the following requirements:

10 (i) Tax increment revenues include ad valorem property taxes  
11 and specific local taxes attributable to the application of the  
12 levy of all taxing jurisdictions other than the state pursuant to  
13 the state education tax act, Act No. 331 of the Public Acts of  
14 1993, being sections 211.901 to 211.906 of the Michigan Compiled  
15 Laws, and local or intermediate school districts upon the cap-  
16 tured assessed value of real and personal property in the devel-  
17 opment area for any purpose authorized by this act.

18 (ii) Tax increment revenues include ad valorem property  
19 taxes and specific local taxes attributable to the application of  
20 the levy of the state pursuant to ~~the state education tax act,~~  
21 Act No. 331 of the Public Acts of 1993, and local or intermediate  
22 school districts upon the captured assessed value of real and  
23 personal property in the development area in an amount equal to  
24 the amount necessary, without regard to subparagraph (i), to  
25 repay eligible advances, eligible obligations, and other pro-  
26 tected obligations.

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

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

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

13 (C) Ad valorem property taxes exempted from capture under  
14 section 4(3) or specific local taxes attributable to such ad  
15 valorem property taxes.

16 (D) Ad valorem property taxes specifically levied for the  
17 payment of principal and interest of obligations approved by the  
18 electors or obligations pledging the unlimited taxing power of  
19 the local governmental unit or specific local taxes attributable  
20 to such ad valorem property taxes.

21 (iv) The amount of tax increment revenues authorized to be  
22 included under subparagraph (ii), and required to be transmitted  
23 to the authority under section 13(1), from ad valorem property  
24 taxes and specific local taxes attributable to the application of  
25 the levy of the state education tax act, a local school district  
26 or an intermediate school district upon the captured assessed  
27 value of real and personal property in a development area shall

1 be determined separately for the levy by the state, each school  
2 district, and each intermediate school district as the product of  
3 sub-subparagraphs (A) and (B):

4 (A) The percentage which the total ad valorem taxes and spe-  
5 cific local taxes available for distribution by law to the state,  
6 local school district, or intermediate school district, respec-  
7 tively, bears to the aggregate amount of ad valorem millage taxes  
8 and specific taxes available for distribution by law to the  
9 state, each local school district, and each intermediate school  
10 district.

11 (B) The maximum amount of ad valorem property taxes and spe-  
12 cific local taxes considered tax increment revenues under sub-  
13 paragraph (ii).

14 (x) "Urban township" means a township that meets all of the  
15 following requirements:

16 (i) Has a population of 20,000 or more, or has a population  
17 of 10,000 or more but is located in a county with a population of  
18 400,000 or more.

19 (ii) Adopted a master zoning plan before February 1, 1987.

20 (iii) Provides sewer, water, and other public services to  
21 all or a part of the township.

22 Sec. 14. (1) By resolution of its board and subject to the  
23 limitations set forth in this section, the authority may autho-  
24 rize, issue, and sell its tax increment bonds to finance a devel-  
25 opment program OR TO REFUND OR REFUND IN ADVANCE BONDS ISSUED  
26 UNDER THIS SECTION. The bonds shall mature in 30 years or less  
27 and are subject to the municipal finance act, Act No. 202 of the

1 Public Acts of 1943, being sections 131.1 to 139.3 of the  
2 Michigan Compiled Laws. The authority may pledge for debt serv-  
3 ice requirements the tax increment revenues to be received from  
4 an eligible property. The bonds issued under this section shall  
5 be considered a single series for the purposes of section 4 of  
6 chapter V of the municipal finance act, Act No. 202 of the Public  
7 Acts of 1943, being section 135.4 of the Michigan Compiled Laws.

8 (2) The municipality by majority vote of the members of its  
9 governing body may make a limited tax pledge to support the  
10 authority's tax increment bonds or, if authorized by the voters  
11 of the municipality, pledge its full faith and credit for the  
12 payment of the principal of and interest on the authority's tax  
13 increment bonds. The municipality may pledge as additional  
14 security for the bonds any money received by the authority or the  
15 municipality pursuant to section 10.

16 (3) Bonds and notes issued by the authority and the interest  
17 on and income from those bonds and notes are exempt from taxation  
18 by the state or a political subdivision of this state.