

SENATE BILL No. 1240

May 13, 2004, Introduced by Senators GEORGE, ALLEN, KUIPERS, CROPSEY,
McMANUS, GOSCHKA, VAN WOERKOM, OLSHOVE and BROWN and referred to
the Committee on Commerce and Labor.

A bill to amend 1975 PA 197, entitled

"An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,"

by amending sections 1 and 7 (MCL 125.1651 and 125.1657), section 1 as amended by 2004 PA 66 and section 7 as amended by 1985 PA 221.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of

1 the authority in anticipation of repayment by the authority.
2 Evidence of the intent to repay an advance may include, but is
3 not limited to, an executed agreement to repay, provisions
4 contained in a tax increment financing plan approved prior to the
5 advance, or a resolution of the authority or the municipality.

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

7 (i) For valuations made before January 1, 1995, the state
8 equalized valuation as determined under the general property tax
9 act, 1893 PA 206, MCL 211.1 to 211.157.

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

13 (c) "Authority" means a downtown development authority
14 created pursuant to this act.

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

16 (e) "Business district" means an area in the downtown of a
17 municipality zoned and used principally for business.

18 (f) "Captured assessed value" means the amount in any 1 year
19 by which the current assessed value of the project area,
20 including the assessed value of property for which specific local
21 taxes are paid in lieu of property taxes as determined in
22 subdivision (y), exceeds the initial assessed value. The state
23 tax commission shall prescribe the method for calculating
24 captured assessed value.

25 (g) "Chief executive officer" means the mayor or city manager
26 of a city, the president or village manager of a village, or the
27 supervisor of a township or, if designated by the township board

1 for purposes of this act, the township superintendent or township
2 manager of a township.

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

5 (i) "Development plan" means that information and those
6 requirements for a development set forth in section 17.

7 (j) "Development program" means the implementation of the
8 development plan.

9 (k) "Downtown district" means an area in a business district
10 that is specifically designated by ordinance of the governing
11 body of the municipality pursuant to this act.

12 (l) "Eligible advance" means an advance made before
13 August 19, 1993.

14 (m) "Eligible obligation" means an obligation issued or
15 incurred by an authority or by a municipality on behalf of an
16 authority before August 19, 1993 and its subsequent refunding by
17 a qualified refunding obligation. Eligible obligation includes
18 an authority's written agreement entered into before August 19,
19 1993 to pay an obligation issued after August 18, 1993 and before
20 December 31, 1996 by another entity on behalf of the authority.

21 (n) "Fire alarm system" means a system designed to detect and
22 annunciate the presence of fire, or by-products of fire. Fire
23 alarm system includes smoke detectors.

24 (o) "Fiscal year" means the fiscal year of the authority.

25 (p) "Governing body of a municipality" means the elected body
26 of a municipality having legislative powers.

27 (q) "Initial assessed value" means the assessed value, as

1 equalized, of all the taxable property within the boundaries of
2 the development area at the time the ordinance establishing the
3 tax increment financing plan is approved, as shown by the most
4 recent assessment roll of the municipality for which equalization
5 has been completed at the time the resolution is adopted.
6 Property exempt from taxation at the time of the determination of
7 the initial assessed value shall be included as zero. For the
8 purpose of determining initial assessed value, property for which
9 a specific local tax is paid in lieu of a property tax shall not
10 be considered to be property that is exempt from taxation. The
11 initial assessed value of property for which a specific local tax
12 was paid in lieu of a property tax shall be determined as
13 provided in subdivision (y). In the case of a municipality
14 having a population of less than 35,000 that established an
15 authority prior to 1985, created a district or districts, and
16 approved a development plan or tax increment financing plan or
17 amendments to a plan, and which plan or tax increment financing
18 plan or amendments to a plan, and which plan expired by its terms
19 December 31, 1991, the initial assessed value for the purpose of
20 any plan or plan amendment adopted as an extension of the expired
21 plan shall be determined as if the plan had not expired
22 December 31, 1991. For a development area designated before 1997
23 in which a renaissance zone has subsequently been designated
24 pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL
25 125.2681 to 125.2696, the initial assessed value of the
26 development area otherwise determined under this subdivision
27 shall be reduced by the amount by which the current assessed

1 value of the development area was reduced in 1997 due to the
2 exemption of property under section 7ff of the general property
3 tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the
4 initial assessed value be less than zero.

5 (r) "Municipality" means a city, village, or township.

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

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

18 (ii) A management contract or a contract for professional
19 services.

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

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

26 (v) A letter of credit, paying agent, transfer agent, bond
27 registrar, or trustee fee associated with a contract, agreement,

1 bond, or note.

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

13 (i) A reimbursement agreement between the municipality and an
14 authority it established.

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

17 (iii) A resolution of the authority agreeing to make payments
18 to the incorporating unit.

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

21 (u) "Operations" means office maintenance, including salaries
22 and expenses of employees, office supplies, consultation fees,
23 design costs, and other expenses incurred in the daily management
24 of the authority and planning of its activities.

25 (v) "Other protected obligation" means:

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

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

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

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

22 (iv) An obligation incurred by the authority evidenced by or
23 to finance a contract to purchase real property within a
24 development area or a contract to develop that property within
25 the development area, or both, if all of the following
26 requirements are met:

27 (A) The authority purchased the real property in 1993.

1 (B) Before June 30, 1995, the authority enters a contract for
2 the development of the real property located within the
3 development area.

4 (C) In 1993, the authority or municipality on behalf of the
5 authority received approval for a grant from both of the
6 following:

7 (I) The department of natural resources for site reclamation
8 of the real property.

9 (II) The department of consumer and industry services for
10 development of the real property.

11 (v) An ongoing management or professional services contract
12 with the governing body of a county which was entered into before
13 March 1, 1994 and which was preceded by a series of limited term
14 management or professional services contracts with the governing
15 body of the county, the last of which was entered into before
16 August 19, 1993.

17 (vi) A loan from a municipality to an authority if the loan
18 was approved by the legislative body of the municipality on
19 April 18, 1994.

20 (vii) Funds expended to match a grant received by a
21 municipality on behalf of an authority for sidewalk improvements
22 from the Michigan department of transportation if the legislative
23 body of the municipality approved the grant application on
24 April 5, 1993 and the grant was received by the municipality in
25 June 1993.

26 (viii) For taxes captured in 1994, an obligation described in
27 this subparagraph issued or incurred to finance a project. An

1 obligation is considered issued or incurred to finance a project
2 described in this subparagraph only if all of the following are
3 met:

4 (A) The obligation requires raising capital for the project
5 or paying for the project, whether or not a borrowing is
6 involved.

7 (B) The obligation was part of a development plan and the tax
8 increment financing plan was approved by a municipality on May 6,
9 1991.

10 (C) The obligation is in the form of a written memorandum of
11 understanding between a municipality and a public utility dated
12 October 27, 1994.

13 (D) The authority or municipality captured school taxes
14 during 1994.

15 (w) "Public facility" means a street, plaza, pedestrian mall,
16 and any improvements to a street, plaza, or pedestrian mall
17 including street furniture and beautification, park, parking
18 facility, recreational facility, right-of-way, structure,
19 waterway, bridge, lake, pond, canal, utility line or pipe,
20 building, and access routes to any of the foregoing, designed and
21 dedicated to use by the public generally, or used by a public
22 agency. Public facility includes an improvement to a facility
23 used by the public or a public facility as those terms are
24 defined in section 1 of 1966 PA 1, MCL 125.1351, which
25 improvement is made to comply with the barrier free design
26 requirements of the state construction code promulgated under the
27 Stille-DeRossett-Hale single state construction code act, 1972 PA

1 230, MCL 125.1501 to 125.1531. **Public facility also includes**
2 **wireless technology infrastructure.**

3 (x) "Qualified refunding obligation" means an obligation
4 issued or incurred by an authority or by a municipality on behalf
5 of an authority to refund an obligation if the refunding
6 obligation meets both of the following:

7 (i) The net present value of the principal and interest to be
8 paid on the refunding obligation, including the cost of issuance,
9 will be less than the net present value of the principal and
10 interest to be paid on the obligation being refunded, as
11 calculated using a method approved by the department of
12 treasury.

13 (ii) The net present value of the sum of the tax increment
14 revenues described in subdivision (aa) (ii) and the distributions
15 under section 13b to repay the refunding obligation will not be
16 greater than the net present value of the sum of the tax
17 increment revenues described in subdivision (aa) (ii) and the
18 distributions under section 13b to repay the obligation being
19 refunded, as calculated using a method approved by the department
20 of treasury.

21 (y) "Specific local tax" means a tax levied under 1974 PA
22 198, MCL 207.551 to 207.572, the commercial redevelopment act,
23 1978 PA 255, MCL 207.651 to 207.668, the technology park
24 development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA
25 189, MCL 211.181 to 211.182. The initial assessed value or
26 current assessed value of property subject to a specific local
27 tax shall be the quotient of the specific local tax paid divided

1 by the ad valorem millage rate. However, after 1993, the state
2 tax commission shall prescribe the method for calculating the
3 initial assessed value and current assessed value of property for
4 which a specific local tax was paid in lieu of a property tax.

5 (z) "State fiscal year" means the annual period commencing
6 October 1 of each year.

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
22 PA 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
3 portion of the captured assessed value shared with taxing
4 jurisdictions within the jurisdictional area of the authority or
5 to a portion of value of property that may be excluded from
6 captured assessed value or specific local taxes attributable to
7 such ad valorem property 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
11 authority or specific local taxes attributable to such ad valorem
12 property taxes.

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

16 (iv) The amount of tax increment revenues authorized to be
17 included under subparagraph (ii), and required to be transmitted
18 to the authority under section 14(1), from ad valorem property
19 taxes and specific local taxes attributable to the application of
20 the levy of the state education tax act, 1993 PA 331, MCL 211.901
21 to 211.906, a local school district or an intermediate school
22 district upon the captured assessed value of real and personal
23 property in a development area shall be determined separately for
24 the levy by the state, each school district, and each

25 intermediate school district as the product of sub-subparagraphs

26 (A) and (B):

27 (A) The percentage that the total ad valorem taxes and

1 specific local taxes available for distribution by law to the
 2 state, local school district, or intermediate school district,
 3 respectively, bears to the aggregate amount of ad valorem millage
 4 taxes and specific taxes available for distribution by law to the
 5 state, each local school district, and each intermediate school
 6 district.

7 (B) The maximum amount of ad valorem property taxes and
 8 specific local taxes considered tax increment revenues under
 9 subparagraph (ii).

10 Sec. 7. The board may:

11 (a) Prepare an analysis of economic changes taking place in
 12 the downtown district.

13 (b) Study and analyze the impact of metropolitan growth upon
 14 the downtown district.

15 (c) Plan and propose the construction, renovation, repair,
 16 remodeling, rehabilitation, restoration, preservation, or
 17 reconstruction of a public facility, an existing building, or a
 18 multiple-family dwelling unit which may be necessary or
 19 appropriate to the execution of a plan which, in the opinion of
 20 the board, aids in the economic growth of the downtown district.

21 (d) Plan, propose, and implement an improvement to a public
 22 facility within the development area to comply with the barrier
 23 free design requirements of the state construction code
 24 promulgated under the ~~state construction code act of 1972, Act~~
 25 ~~No. 230 of the Public Acts of 1972, being sections 125.1501 to~~
 26 ~~125.1531 of the Michigan Compiled Laws~~ **Stille-DeRossett-Hale**
 27 **single state construction code act, 1972 PA 230, MCL 125.1501 to**

1 125.1531.

2 (e) Develop long-range plans, in cooperation with the agency
3 which is chiefly responsible for planning in the municipality,
4 designed to halt the deterioration of property values in the
5 downtown district and to promote the economic growth of the
6 downtown district, and take such steps as may be necessary to
7 persuade property owners to implement the plans to the fullest
8 extent possible.

9 (f) Implement any plan of development in the downtown
10 district necessary to achieve the purposes of this act, in
11 accordance with the powers of the authority as granted by this
12 act.

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

15 (h) Acquire by purchase or otherwise, on terms and
16 conditions and in a manner the authority ~~deems~~ **considers** proper
17 or own, convey, or otherwise dispose of, or lease as lessor or
18 lessee, land and other property, real or personal, or rights or
19 interests ~~therein~~ **in property**, which the authority determines
20 is reasonably necessary to achieve the purposes of this act, and
21 to grant or acquire licenses, easements, and options with respect
22 ~~thereto~~ **to that property**.

23 (i) Improve land and construct, reconstruct, rehabilitate,
24 restore and preserve, equip, improve, maintain, repair, and
25 operate any building, including multiple-family dwellings, and
26 any necessary or desirable appurtenances ~~thereto~~ **to that**
27 **property**, within the downtown district for the use, in whole or

1 in part, of any public or private person or corporation, or a
2 combination ~~thereof~~ **of them**.

3 (j) Fix, charge, and collect fees, rents, and charges for
4 the use of any building or property under its control or any part
5 thereof, or facility therein, and pledge the fees, rents, and
6 charges for the payment of revenue bonds issued by the
7 authority.

8 (k) Lease any building or property under its control, or any
9 part ~~thereof~~ **of a building or property**.

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

12 (m) Acquire and construct public facilities.

13 (n) **Create, operate, and fund marketing initiatives that**
14 **benefit the downtown district.**