

SENATE BILL No. 305

April 20, 2017, Introduced by Senators BRANDENBURG, ROBERTSON, JONES and
MACGREGOR 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), as
amended by 2016 PA 505.

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)~~, **(X)**, exceeds the initial assessed value. The state
17 tax 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)~~ **(BB)(ii)** in order to
20 pay 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)~~ **(X)**.

7 **(Q) "LIBRARY CAPTURE OBLIGATION" MEANS A BOND, NOTE, OR**
8 **SIMILAR INSTRUMENT EVIDENCING DEBT FOR BORROWED MONEY ISSUED BY THE**
9 **AUTHORITY BEFORE JANUARY 1, 2017, WHICH PLEDGES PAYMENT OF THE DEBT**
10 **BY THE AUTHORITY FROM AN IDENTIFIED SOURCE OF REVENUE.**

11 **(R)** ~~(q)~~ "Municipality" means a city.

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

21 (i) A requirement to pay proceeds derived from ad valorem
22 property taxes or taxes levied in lieu of ad valorem property
23 taxes.

24 (ii) A management contract or a contract for professional
25 services.

26 (iii) A payment required on a contract, agreement, bond, or
27 note if the requirement to make or assume the payment arose before

1 August 19, 1993.

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

5 (v) A letter of credit, paying agent, transfer agent, bond
6 registrar, or trustee fee associated with a contract, agreement,
7 bond, or note.

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

19 (i) A reimbursement agreement between the municipality and an
20 authority it established.

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

23 (iii) A resolution of the authority agreeing to make payments
24 to the incorporating unit.

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

27 (U) ~~(t)~~—"Other protected obligation" means:

1 (i) A qualified refunding obligation issued to refund an
2 obligation described in subparagraph (ii) or (iii), an obligation
3 that is not a qualified refunding obligation that is issued to
4 refund an eligible obligation, or a qualified refunding obligation
5 issued to refund an obligation described in this subparagraph.

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

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

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

27 (v) An ongoing management or professional services contract

1 with the governing body of a county which was entered into before
2 March 1, 1994 and which was preceded by a series of limited term
3 management or professional services contracts with the governing
4 body of the county, the last of which was entered into before
5 August 19, 1993.

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

14 (vii) An obligation issued or incurred by an authority or by a
15 municipality on behalf of an authority that meets all of the
16 following qualifications:

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

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

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

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

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

3 (A) The obligation is a contract of lease originally executed
4 on December 20, 1994 between the municipality and the authority to
5 partially implement the authority's development plan and tax
6 increment financing plan.

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

14 (V) ~~(u)~~ "Public facility" means 1 or more of the following:

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

1 (ii) The acquisition and disposal of real and personal
2 property or interests in real and personal property, demolition of
3 structures, site preparation, relocation costs, building
4 rehabilitation, and all associated administrative costs, including,
5 but not limited to, architect's, engineer's, legal, and accounting
6 fees as contained in the resolution establishing the district's
7 development plan.

8 (iii) An improvement to a facility used by the public or a
9 public facility as those terms are defined in section 1 of 1966 PA
10 1, MCL 125.1351, which improvement is made to comply with the
11 barrier free design requirements of the state construction code
12 promulgated under the Stille-DeRossett-Hale single state
13 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

14 **(W)** ~~(v)~~—"Qualified refunding obligation" means an obligation
15 issued or incurred by an authority or by a municipality on behalf
16 of an authority to refund an obligation if 1 of the following
17 applies:

18 (i) The refunding obligation meets both of the following:

19 (A) The net present value of the principal and interest to be
20 paid on the refunding obligation, including the cost of issuance,
21 will be less than the net present value of the principal and
22 interest to be paid on the obligation being refunded, as calculated
23 using a method approved by the department of treasury.

24 (B) The net present value of the sum of the tax increment
25 revenues described in subdivision ~~(aa)~~ ~~(ii)~~ **(BB)** **(ii)** and the
26 distributions under section 12a to repay the refunding obligation
27 will not be greater than the net present value of the sum of the

1 tax increment revenues described in subdivision ~~(aa)~~ ~~(ii)~~ **(BB) (ii)**
2 and the distributions under section 12a to repay the obligation
3 being refunded, as calculated using a method approved by the
4 department of treasury.

5 (ii) The refunding obligation is a tax increment refunding
6 bond issued to refund a refunding bond that is an other protected
7 obligation issued as a capital appreciation bond delivered to the
8 Michigan municipal bond authority on December 21, 1994, or bonds
9 issued to refund that bond, and the authority, by resolution of its
10 board, authorized issuance of the refunding obligation before
11 December 31, 2019 with a final maturity not later than 2039. The
12 municipality by majority vote of the members of its governing body
13 may pledge its full faith and credit for the payment of the
14 principal of and interest on the refunding obligation. A refunding
15 obligation issued under this subparagraph is not subject to the
16 requirements of section 305(2), (3), (5), or (6), 501, 503, or 611
17 of the revised municipal finance act, 2001 PA 34, MCL 141.2305,
18 141.2501, 141.2503, and 141.2611. The duration of the development
19 plan and the tax increment financing plan relating to the refunding
20 obligations described in this subparagraph is extended to 1 year
21 after the final date of maturity of the refunding obligation.

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

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

6 (Y) ~~(x)~~—"State fiscal year" means the annual period commencing
7 October 1 of each year.

8 (Z) ~~(y)~~—"Tax increment district" or "district" means that area
9 to which the tax increment ~~finance~~**FINANCING** plan pertains.

10 (AA) ~~(z)~~—"Tax increment financing plan" means that information
11 and those requirements set forth in sections 13 to 15.

12 (BB) ~~(aa)~~—"Tax increment revenues" means the amount of ad
13 valorem property taxes and specific local taxes attributable to the
14 application of the levy of all taxing jurisdictions upon the
15 captured assessed value of real and personal property in the
16 development area, subject to the following requirements:

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

24 (ii) Tax increment revenues include ad valorem property taxes
25 and specific local taxes attributable to the application of the
26 levy of the state pursuant to the state education tax act, 1993 PA
27 331, MCL 211.901 to 211.906, and local or intermediate school

1 districts upon the captured assessed value of real and personal
2 property in the development area in an amount equal to the amount
3 necessary, without regard to subparagraph (i), to repay eligible
4 advances, eligible obligations, and other protected obligations.

5 (iii) Tax increment revenues do not include any of the
6 following:

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

13 (B) Ad valorem property taxes excluded by the tax increment
14 financing plan of the authority from the determination of the
15 amount of tax increment revenues to be transmitted to the authority
16 or specific local taxes attributable to such ad valorem property
17 taxes.

18 (C) Ad valorem property taxes levied under 1 or more of the
19 following or specific local taxes attributable to those ad valorem
20 property taxes:

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

23 (II) The art institute authorities act, 2010 PA 296, MCL
24 123.1201 to 123.1229.

25 (III) Except as otherwise provided in section 3(6), ad valorem
26 property taxes or specific local taxes attributable to those ad
27 valorem property taxes levied for a separate millage for public

1 library purposes approved by the electors after December 31, 2016.

2 (iv) The amount of tax increment revenues authorized to be
3 included under subparagraph (ii), and required to be transmitted to
4 the authority under section 14(1), from ad valorem property taxes
5 and specific local taxes attributable to the application of the
6 levy of the state education tax act, 1993 PA 331, MCL 211.901 to
7 211.906, a local school district or an intermediate school district
8 upon the captured assessed value of real and personal property in a
9 development area shall be determined separately for the levy by the
10 state, each school district, and each intermediate school district
11 as the product of sub-subparagraphs (A) and (B):

12 (A) The percentage which the total ad valorem taxes and
13 specific local taxes available for distribution by law to the
14 state, local school district, or intermediate school district,
15 respectively, bear to the aggregate amount of ad valorem millage
16 taxes and specific taxes available for distribution by law to the
17 state, each local school district, and each intermediate school
18 district.

19 (B) The maximum amount of ad valorem property taxes and
20 specific local taxes considered tax increment revenues under
21 subparagraph (ii).

22 (CC) ~~(bb)~~—"Transit-oriented development" means infrastructure
23 improvements that are located within 1/2 mile of a transit station
24 or transit-oriented facility that promotes transit ridership or
25 passenger rail use as determined by the board and approved by the
26 municipality in which it is located.

27 (DD) ~~(ee)~~—"Transit-oriented facility" means a facility that

1 houses a transit station in a manner that promotes transit
2 ridership or passenger rail use.

3 Sec. 3. (1) If the governing body of a municipality determines
4 that it is in the best interests of the public to halt a decline in
5 property values, increase property tax valuation, eliminate the
6 causes of the decline in property values, and ~~to~~ promote growth in
7 an area in the municipality, the governing body of that
8 municipality may declare by resolution its intention to create and
9 provide for the operation of an authority.

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

1 regard to the establishment of the authority and the boundaries of
2 the proposed authority district. The governing body of the
3 municipality shall not incorporate land into the authority district
4 not included in the description contained in the notice of public
5 hearing, but it may eliminate described lands from the authority
6 district in the final determination of the boundaries.

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

19 (4) The governing body may alter or amend the boundaries of
20 the authority district to include or exclude lands from the
21 authority district in accordance with the same requirements
22 prescribed for adopting the resolution creating the authority.

23 (5) The validity of the proceedings establishing an authority
24 shall be conclusive unless contested in a court of competent
25 jurisdiction within 60 days after the last of the following takes
26 place:

27 (a) Publication of the resolution as adopted.

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

2 (6) If a separate millage for public library purposes was
3 ~~levied~~**IN EFFECT OR APPROVED BY ELECTORS** before January 1, 2017,
4 and all **LIBRARY CAPTURE** obligations ~~and other protected obligations~~
5 of the authority are paid, then the levy is exempt from capture
6 under this act, unless the library board or commission allows all
7 or a portion of its taxes levied to be included as tax increment
8 revenues and subject to capture under this act under the terms of a
9 written agreement between the library board or commission and the
10 authority. The written agreement shall be filed with the clerk of
11 the municipality. However, if a separate millage for public library
12 purposes was ~~levied~~**IN EFFECT OR APPROVED BY ELECTORS** before
13 January 1, 2017, and the authority alters or amends the boundaries
14 of the authority district, **ADOPTS A NEW DEVELOPMENT PLAN OR FINANCE**
15 **PLAN**, or extends the duration of, **OR OTHERWISE MODIFIES OR AMENDS**,
16 the existing **DEVELOPMENT PLAN OR** finance plan, then the library
17 board or commission may, not later than 60 days after a public
18 hearing **REQUIRED FOR THAT ACTION** is held under this ~~subsection~~,
19 **ACT**, exempt all or a portion of its taxes from capture by adopting
20 a resolution to that effect and filing a copy with the clerk of the
21 municipality that created the authority. For ad valorem property
22 taxes or specific local taxes attributable to those ad valorem
23 property taxes levied for a separate millage for public library
24 purposes approved by the electors after December 31, 2016, a
25 library board or commission may allow all or a portion of its taxes
26 levied to be included as tax increment revenues and subject to
27 capture under this act under the terms of a written agreement

1 between the library board or commission and the authority. The
2 written agreement shall be filed with the clerk of the
3 municipality. However, if the library was created under section 1
4 or 10a of 1877 PA 164, MCL 397.201 and 397.210a, or established
5 under 1869 LA 233, then any action of the library board or
6 commission under this subsection shall have the concurrence of the
7 chief executive officer of the city that created the library to be
8 effective.