



# HOUSE BILL No. 5071

September 19, 1995, Introduced by Reps. Anthony, Pitoniak, 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 1 and 16 of Act No. 197 of the Public Acts of 1975, entitled as amended

"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,"

section 1 as amended by Act No. 381 of the Public Acts of 1994 and section 16 as amended by Act No. 323 of the Public Acts of 1993, being sections 125.1651 and 125.1666 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 1 and 16 of Act No. 197 of the Public  
2 Acts of 1975, section 1 as amended by Act No. 381 of the Public  
3 Acts of 1994 and section 16 as amended by Act No. 323 of the  
4 Public Acts of 1993, being sections 125.1651 and 125.1666 of the  
5 Michigan Compiled Laws, are amended to read as follows:

6       Sec. 1. As used in this act:

7       (a) "Advance" means a transfer of funds made by a municipal-  
8 ity to an authority or to another person on behalf of the author-  
9 ity in anticipation of repayment by the authority. Evidence of  
10 the intent to repay an advance may include, but is not limited  
11 to, an executed agreement to repay, provisions contained in a tax  
12 increment financing plan approved prior to the advance, or a res-  
13 olution of the authority or the municipality.

14       (b) "Authority" means a downtown development authority cre-  
15 ated pursuant to this act.

16       (c) "Board" means the governing body of an authority.

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

19       (e) "Captured assessed value" means the amount in any 1 year  
20 by which the current assessed value of the project area, includ-  
21 ing the assessed value of property for which specific local taxes  
22 are paid in lieu of property taxes as determined in subdivision  
23 (v), exceeds the initial assessed value. The state tax commis-  
24 sion shall prescribe the method for calculating captured assessed  
25 value.

26       (f) "Chief executive officer" means the mayor or city  
27 manager of a city, the president or village manager of a village,

1 or the supervisor of a township or, if designated by the township  
2 board for purposes of this act, the township superintendent or  
3 township manager of a township.

4 (g) "Development area" means that area to which a develop-  
5 ment plan is applicable.

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

8 (i) "Development program" means the implementation of the  
9 development plan.

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

13 (k) "Eligible advance" means an advance made before  
14 August 19, 1993.

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

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

22 (n) "Governing body of a municipality" means the elected  
23 body of a municipality having legislative powers.

24 (o) "Initial assessed value" means the assessed value, as  
25 equalized, of all the taxable property within the boundaries of  
26 the development area at the time the ordinance establishing the  
27 tax increment financing plan is approved, as shown by the most

1 recent assessment roll of the municipality for which equalization  
2 has been completed at the time the resolution is adopted.  
3 Property exempt from taxation at the time of the determination of  
4 the initial assessed value shall be included as zero. For the  
5 purpose of determining initial assessed value, property for which  
6 a specific local tax is paid in lieu of a property tax shall not  
7 be considered to be property that is exempt from taxation. The  
8 initial assessed value of property for which a specific local tax  
9 was paid in lieu of a property tax shall be determined as pro-  
10 vided in subdivision (v).

11 (p) "Municipality" means a city, village, or township.

12 (q) "Obligation" means a written promise to pay, whether  
13 evidenced by a contract, agreement, lease, sublease, bond, or  
14 note, or a requirement to pay imposed by law. An obligation does  
15 not include a payment required solely because of default upon an  
16 obligation, employee salaries, or consideration paid for the use  
17 of municipal offices. Obligation includes, but is not limited  
18 to, the following:

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

22 (ii) A management contract or a contract for professional  
23 services.

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

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

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

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

16 (i) A reimbursement agreement between the municipality and  
17 an authority it established.

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

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

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

24 (s) "Operations" means office maintenance, including sala-  
25 ries and expenses of employees, office supplies, consultation  
26 fees, design costs, and other expenses incurred in the daily  
27 management of the authority and planning of its activities.

1 (t) "Other protected obligation" means:

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

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

11 (iii) An obligation incurred by an authority or municipality  
12 after August 19, 1993, to reimburse a party to a development  
13 agreement entered into by a municipality or authority before  
14 August 19, 1993, for a project described in a tax increment  
15 financing plan approved in accordance with this act before August  
16 19, 1993, and undertaken and installed by that party in accord-  
17 ance with the development agreement. An obligation incurred by  
18 the authority evidenced by or to finance a contract to purchase  
19 real property within a development area or a contract to develop  
20 that property within the development area, or both, if all of the  
21 following requirements are met:

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

23 (B) Before June 30, 1995, the authority enters a contract  
24 for the development of the real property located within the  
25 development area.

1 (C) In 1993, the authority or municipality on behalf of the  
2 authority received approval for a grant from both of the  
3 following:

4 (I) The department of natural resources for site reclamation  
5 of the real property.

6 (II) The department of commerce for development of the real  
7 property.

8 (u) "Public facility" means a street, plaza, pedestrian  
9 mall, and any improvements to a street, plaza, or pedestrian mall  
10 including street furniture and beautification, park, parking  
11 facility, recreational facility, right of way, structure, water-  
12 way, bridge, lake, pond, canal, utility line or pipe, building,  
13 and access routes to any of the foregoing, designed and dedicated  
14 to use by the public generally, or used by a public agency.  
15 Public facility includes an improvement to a facility used by the  
16 public or a public facility as those terms are defined in section  
17 1 of Act No. 1 of the Public Acts of 1966, being section 125.1351  
18 of the Michigan Compiled Laws, which improvement is made to  
19 comply with the barrier free design requirements of the state  
20 construction code promulgated under the state construction code  
21 act of 1972, Act No. 230 of the Public Acts of 1972, being sec-  
22 tions 125.1501 to 125.1531 of the Michigan Compiled Laws.

23 (v) "Specific local tax" means a tax levied under Act  
24 No. 198 of the Public Acts of 1974, being sections 207.551 to  
25 207.572 of the Michigan Compiled Laws, the commercial redevelop-  
26 ment act, Act No. 255 of the Public Acts of 1978, being sections  
27 207.651 to 207.668 of the Michigan Compiled Laws, the technology

1 park development act, Act No. 385 of the Public Acts of 1984,  
2 being sections 207.701 to 207.718 of the Michigan Compiled Laws,  
3 and Act No. 189 of the Public Acts of 1953, being sections  
4 211.181 to 211.182 of the Michigan Compiled Laws. The initial  
5 assessed value or current assessed value of property subject to a  
6 specific local tax shall be the quotient of the specific local  
7 tax paid divided by the ad valorem millage rate. However, after  
8 1993, the state tax commission shall prescribe the method for  
9 calculating the initial assessed value and current assessed value  
10 of property for which a specific local tax was paid in lieu of a  
11 property tax.

12 (w) "State fiscal year" means the annual period commencing  
13 October 1 of each year.

14 (x) "Tax increment revenues" means the amount of ad valorem  
15 property taxes and specific local taxes attributable to the  
16 application of the levy of all taxing jurisdictions upon the cap-  
17 ture assessed value of real and personal property in the develop-  
18 ment area, subject to the following requirements:

19 (i) Tax increment revenues include ad valorem property taxes  
20 and specific local taxes attributable to the application of the  
21 levy of all taxing jurisdictions other than the state pursuant to  
22 the state education tax act, Act No. 331 of the Public Acts of  
23 1993, being sections 211.901 to 211.906 of the Michigan Compiled  
24 Laws, and local or intermediate school districts upon the cap-  
25 tured assessed value of real and personal property in the devel-  
26 opment area for any purpose authorized by this act.



1       (ii) Tax increment revenues include ad valorem property  
2 taxes and specific local taxes attributable to the application of  
3 the levy of the state pursuant to ~~the state education tax act,~~  
4 Act No. 331 of the Public Acts of 1993, and local or intermediate  
5 school districts upon the captured assessed value of real and  
6 personal property in the development area in an amount equal to  
7 the amount necessary, without regard to subparagraph (i), to  
8 repay eligible advances, eligible obligations, and other pro-  
9 tected obligations.

10       (iii) Tax increment revenues do not include any of the  
11 following:

12       (A) Ad valorem property taxes attributable either to a por-  
13 tion of the captured assessed value shared with taxing jurisdic-  
14 tions within the jurisdictional area of the authority or to a  
15 portion of value of property that may be excluded from captured  
16 assessed value or specific local taxes attributable to such ad  
17 valorem property taxes.

18       (B) Ad valorem property taxes excluded by the tax increment  
19 financing plan of the authority from the determination of the  
20 amount of tax increment revenues to be transmitted to the author-  
21 ity or specific local taxes attributable to such ad valorem prop-  
22 erty taxes.

23       (C) Ad valorem property taxes exempted from capture under  
24 section 3(3) or specific local taxes attributable to such ad  
25 valorem property taxes.

26       (iv) The amount of tax increment revenues authorized to be  
27 included under subparagraph (ii), and required to be transmitted

1 to the authority under section 14(1), from ad valorem property  
2 taxes and specific local taxes attributable to the application of  
3 the levy of ~~the state education tax act,~~ Act No. 331 of the  
4 Public Acts of 1993, a local school district or an intermediate  
5 school district upon the captured assessed value of real and per-  
6 sonal property in a development area shall be determined sepa-  
7 rately for the levy by the state, each school district, and each  
8 intermediate school district as the product of  
9 sub-subparagraphs (A) and (B):

10 (A) The percentage which the total ad valorem taxes and spe-  
11 cific local taxes available for distribution by law to the state,  
12 local school district, or intermediate school district, respec-  
13 tively, bears to the aggregate amount of ad valorem millage taxes  
14 and specific taxes available for distribution by law to the  
15 state, each local school district, and each intermediate school  
16 district.

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

20 Sec. 16. (1) The municipality may by resolution of its gov-  
21 erning body authorize, issue, and sell general obligation bonds  
22 subject to the limitations set forth in this subsection to  
23 finance the development program of the tax increment financing  
24 plan or to refund bonds issued under this section and shall  
25 pledge its full faith and credit for the payment of the bonds.  
26 The municipality may pledge as additional security for the bonds  
27 any money received by the authority or the municipality pursuant

1 to section 11. The bonds shall mature in not more than 30 years  
2 and shall be subject to the municipal finance act, Act No. 202 of  
3 the Public Acts of 1943, ~~as amended,~~ being sections 131.1 to  
4 139.3 of the Michigan Compiled Laws. Before the municipality may  
5 authorize the borrowing, the authority shall submit an estimate  
6 of the anticipated tax increment revenues and other revenue  
7 available under section 11 to be available for payment of princi-  
8 pal and interest on the bonds, to the governing body of the  
9 municipality. This estimate shall be approved by the governing  
10 body of the municipality by resolution adopted by majority vote  
11 of the members of the governing body in the resolution authoriz-  
12 ing the bonds. If the bonds are approved by the department of  
13 treasury in those instances in which an exception to prior  
14 approval is not available under section 11 of chapter III of Act  
15 No. 202 of the Public Acts of 1943, being section 133.11 of the  
16 Michigan Compiled Laws, or if the governing body of the munici-  
17 pality adopts the resolution authorizing the bonds and prior  
18 approval of the department of treasury is not required pursuant  
19 to section 11 of chapter III of Act No. 202 of the Public Acts of  
20 1943, the estimate of the anticipated tax increment revenues and  
21 other revenue available under section 11 to be available for pay-  
22 ment of principal and interest on the bonds shall be conclusive  
23 for purposes of this section. The bonds issued under this sub-  
24 section shall be considered a single series for the purposes of  
25 Act No. 202 of the Public Acts of 1943. ~~, as amended.~~

26 (2) By resolution of its governing body, the authority may  
27 authorize, issue, and sell tax increment bonds subject to the

1 limitations set forth in this subsection to finance the  
2 development program of the tax increment financing plan or to  
3 refund OR REFUND IN ADVANCE bonds issued under this section. The  
4 tax increment bonds issued by the authority under this subsection  
5 shall pledge solely the tax increment revenues of a development  
6 area in which the project is located or a development area from  
7 which tax increment revenues may be used for this project, or  
8 both. In addition or in the alternative, the bonds issued by the  
9 authority pursuant to this subsection may be secured by any other  
10 revenues identified in section 11 as sources of financing for  
11 activities of the authority that the authority shall specifically  
12 pledge in the resolution. However, the full faith and credit of  
13 the municipality shall not be pledged to secure bonds issued pur-  
14 suant to this subsection. The bonds shall mature in not more  
15 than 30 years and shall bear interest and be payable upon the  
16 terms and conditions determined by the authority in the resolu-  
17 tion approving the bonds and shall be sold at public or private  
18 sale by the authority. The bond issue may include a sum suffi-  
19 cient to pay interest on the tax increment bonds until full  
20 development of tax increment revenues from the project and also a  
21 sum to provide a reasonable reserve for payment of principal and  
22 interest on the bonds. The resolution authorizing the bonds  
23 shall create a lien on the tax increment revenues and other reve-  
24 nues pledged by the resolution that shall be a statutory lien and  
25 shall be a first lien subject only to liens previously created.  
26 The resolution may provide the terms upon which additional bonds  
27 may be issued of equal standing and parity of lien as to the tax

1 increment revenues and other revenues pledged under the  
2 resolution. Except for the requirement of Act No. 202 of the  
3 Public Acts of 1943 that the authority receive the approval or an  
4 exception from approval from the department of treasury prior to  
5 the issuance of bonds under this subsection, the terms of Act  
6 No. 202 of the Public Acts of 1943 shall not apply to bonds  
7 issued pursuant to this subsection that pledge revenue received  
8 pursuant to section 11 for repayment of the bonds.