

HOUSE BILL No. 5180

September 6, 2007, Introduced by Reps. Amos, Sheltroun and Rick Jones and referred to the Committee on New Economy and Quality of Life.

A bill to amend 1986 PA 281, entitled
"The local development financing act,"
by amending section 4 (MCL 125.2154), as amended by 2005 PA 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) The governing body of a municipality may declare
2 by resolution adopted by a majority of its members elected and
3 serving its intention to create and provide for the operation of an
4 authority.

5 (2) In the resolution of intent, the governing body proposing
6 to create the authority shall set a date for holding a public
7 hearing on the adoption of a proposed resolution creating the
8 authority and designating the boundaries of the authority district
9 or districts. Notice of the public hearing shall be published twice

1 in a newspaper of general circulation in the municipality, not less
2 than 20 nor more than 40 days before the date of the hearing. Not
3 less than 20 days before the hearing, the governing body proposing
4 to create the authority shall also mail notice of the hearing to
5 the property taxpayers of record in a proposed authority district
6 and, for a public hearing to be held after February 15, 1994, to
7 the governing body of each taxing jurisdiction levying taxes that
8 would be subject to capture if the authority is established and a
9 tax increment financing plan is approved. Beginning June 1, 2005,
10 the notice of hearing within the time frame described in this
11 subsection shall be mailed by certified mail to the governing body
12 of each taxing jurisdiction levying taxes that would be subject to
13 capture if the authority is established and a tax increment
14 financing plan is approved. Failure of a property taxpayer to
15 receive the notice shall not invalidate these proceedings. The
16 notice shall state the date, time, and place of the hearing, and
17 shall describe the boundaries of the proposed authority district or
18 districts. At that hearing, a resident, taxpayer, or property owner
19 from a taxing jurisdiction in which the proposed district is
20 located or an official from a taxing jurisdiction with millage that
21 would be subject to capture has the right to be heard in regard to
22 the establishment of the authority and the boundaries of that
23 proposed authority district. The governing body of the municipality
24 in which a proposed district is to be located shall not incorporate
25 land into an authority district not included in the description
26 contained in the notice of public hearing, but it may eliminate
27 lands described in the notice of public hearing from an authority

1 district in the final determination of the boundaries.

2 (3) ~~Not~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, NOT**
3 more than 60 days after a public hearing held after February 15,
4 1994, the governing body of a taxing jurisdiction with millage that
5 would otherwise be subject to capture may exempt its taxes from
6 capture by adopting a resolution to that effect and filing a copy
7 with the clerk of the municipality proposing to create the
8 authority. However, a resolution by a governing body of a taxing
9 jurisdiction to exempt its taxes from capture is not effective for
10 the capture of taxes that are used for a certified technology park.
11 ~~The~~ **BEGINNING WITH A PUBLIC HEARING HELD ON OR AFTER JANUARY 1,**
12 **2008 BY A GOVERNING BODY TO CREATE AN AUTHORITY, IF THE GOVERNING**
13 **BODY CREATES THE AUTHORITY, THEN ONLY THE AD VALOREM PROPERTY TAXES**
14 **OF THAT MUNICIPALITY ARE SUBJECT TO CAPTURE UNDER THIS ACT. THE**
15 **TAXES OF THE OTHER TAXING JURISDICTIONS LEVYING AD VALOREM PROPERTY**
16 **TAXES LOCATED INSIDE THE BOUNDARIES OF THE AUTHORITY ARE SUBJECT TO**
17 **CAPTURE ONLY IF THE GOVERNING BODY OF THE TAXING JURISDICTION**
18 **CONSENTS TO THE CAPTURE BY ADOPTING A RESOLUTION TO THAT EFFECT AND**
19 **FILING A COPY WITH THE CLERK OF THE MUNICIPALITY CREATING THE**
20 **AUTHORITY. A resolution DESCRIBED IN THIS SUBSECTION** takes effect
21 when filed with that clerk and remains effective until a copy of a
22 resolution rescinding that resolution is filed with that clerk.

23 (4) Not less than 60 days after the public hearing, if the
24 governing body creating the authority intends to proceed with the
25 establishment of the authority, it shall adopt, by majority vote of
26 its members elected and serving, a resolution establishing the
27 authority and designating the boundaries of the authority district

1 or districts within which the authority shall exercise its powers.
2 The adoption of the resolution is subject to any applicable
3 statutory or charter provisions with respect to the approval or
4 disapproval of resolutions by the chief executive officer of the
5 municipality and the adoption of a resolution over his or her veto.
6 This resolution shall be filed with the secretary of state promptly
7 after its adoption and shall be published at least once in a
8 newspaper of general circulation in the municipality.

9 (5) The governing body may alter or amend the boundaries of an
10 authority district to include or exclude lands from that authority
11 district or create new authority districts pursuant to the same
12 requirements prescribed for adopting the resolution creating the
13 authority.

14 (6) The validity of the proceedings establishing an authority
15 shall be conclusive unless contested in a court of competent
16 jurisdiction within 60 days after the last of the following takes
17 place:

18 (a) Publication of the resolution creating the authority as
19 adopted.

20 (b) Filing of the resolution creating the authority with the
21 secretary of state.

22 (7) Except as otherwise provided by this subsection, if 2 or
23 more municipalities desire to establish an authority under section
24 3(2), each municipality in which the authority district will be
25 located shall comply with the procedures prescribed by this act.
26 The notice required by subsection (2) may be published jointly by
27 the municipalities establishing the authority. The resolutions

1 establishing the authority shall include, or shall approve an
2 agreement including, provisions governing the number of members on
3 the board, the method of appointment, the members to be represented
4 by governmental units or agencies, the terms of initial and
5 subsequent appointments to the board, the manner in which a member
6 of the board may be removed for cause before the expiration of his
7 or her term, the manner in which the authority may be dissolved,
8 and the disposition of assets upon dissolution. An authority
9 described in this subsection shall not be considered established
10 unless all of the following conditions are satisfied:

11 (a) A resolution is approved and filed with the secretary of
12 state by each municipality in which the authority district will be
13 located.

14 (b) The same boundaries have been approved for the authority
15 district by the governing body of each municipality in which the
16 authority district will be located.

17 (c) The governing body of the county in which a majority of
18 the authority district will be located has approved by resolution
19 the creation of the authority.