

SENATE BILL No. 428

April 1, 2009, Introduced by Senator ALLEN and referred to the Committee on Commerce and Tourism.

A bill to amend 1986 PA 281, entitled
"The local development financing act,"
by amending sections 2, 12, and 12a (MCL 125.2152, 125.2162, and
125.2162a), section 2 as amended by 2007 PA 200, section 12 as
amended by 2000 PA 248, and section 12a as amended by 2008 PA 105.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

2 (i) For valuations made before January 1, 1995, the state
3 equalized valuation as determined under the general property tax
4 act, 1893 PA 206, MCL 211.1 to ~~211.157~~ 211.155.

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

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

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

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

13 (f) "Business development area" means an area designated as a
14 certified industrial park under this act prior to the effective
15 date of the amendatory act that added this subdivision, or an area
16 designated in the tax increment financing plan that meets all of
17 the following requirements:

18 (i) The area is zoned to allow its use for eligible property.

19 (ii) The area has a site plan or plat approved by the city,
20 village, or township in which the area is located.

21 (g) "Business incubator" means real and personal property that
22 meets all of the following requirements:

23 (i) Is located in a certified technology park.

24 (ii) Is subject to an agreement under section 12a.

25 (iii) Is developed for the primary purpose of attracting 1 or
26 more owners or tenants who will engage in activities that would
27 each separately qualify the property as eligible property under

1 subdivision (p) (iii) .

2 (h) "Captured assessed value" means the amount in any 1 year
3 by which the current assessed value of the eligible property
4 identified in the tax increment financing plan or, for a certified
5 technology park, the real and personal property included in the tax
6 increment financing plan, including the current assessed value of
7 property for which specific local taxes are paid in lieu of
8 property taxes as determined pursuant to subdivision (cc), exceeds
9 the initial assessed value. The state tax commission shall
10 prescribe the method for calculating captured assessed value.

11 (i) "Certified business park" means a business development
12 area that has been designated by the Michigan ~~economic development~~
13 ~~corporation~~ **STRATEGIC FUND** as meeting criteria established by the
14 Michigan ~~economic development corporation~~ **STRATEGIC FUND**. The
15 criteria shall establish standards for business development areas
16 including, but not limited to, use, types of building materials,
17 landscaping, setbacks, parking, storage areas, and management.

18 (j) "Certified technology park" means that portion of the
19 authority district designated by a written agreement entered into
20 pursuant to section 12a between the authority, the municipality,
21 and the Michigan ~~economic development corporation~~ **STRATEGIC FUND**.

22 (k) "Chief executive officer" means the mayor or city manager
23 of a city, the president of a village, or, for other local units of
24 government or school districts, the person charged by law with the
25 supervision of the functions of the local unit of government or
26 school district.

27 (l) "Development plan" means that information and those

1 requirements for a development set forth in section 15.

2 (m) "Development program" means the implementation of a
3 development plan.

4 (n) "Eligible advance" means an advance made before August 19,
5 1993.

6 (o) "Eligible obligation" means an obligation issued or
7 incurred by an authority or by a municipality on behalf of an
8 authority before August 19, 1993 and its subsequent refunding by a
9 qualified refunding obligation. Eligible obligation includes an
10 authority's written agreement entered into before August 19, 1993
11 to pay an obligation issued after August 18, 1993 and before
12 December 31, 1996 by another entity on behalf of the authority.

13 (p) "Eligible property" means land improvements, buildings,
14 structures, and other real property, and machinery, equipment,
15 furniture, and fixtures, or any part or accessory thereof whether
16 completed or in the process of construction comprising an
17 integrated whole, located within an authority district, of which
18 the primary purpose and use is or will be 1 of the following:

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

21 (ii) Agricultural processing.

22 (iii) A high technology activity.

23 (iv) The production of energy by the processing of goods or
24 materials by physical or chemical change by a small power
25 production facility as defined by the federal energy regulatory
26 commission pursuant to the public utility regulatory policies act
27 of 1978, Public Law 95-617, which facility is fueled primarily by

1 biomass or wood waste. This act does not affect a person's rights
2 or liabilities under law with respect to groundwater contamination
3 described in this subparagraph. This subparagraph applies only if
4 all of the following requirements are met:

5 (A) Tax increment revenues captured from the eligible property
6 will be used to finance, or will be pledged for debt service on tax
7 increment bonds used to finance, a public facility in or near the
8 authority district designed to reduce, eliminate, or prevent the
9 spread of identified soil and groundwater contamination, pursuant
10 to law.

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

15 (C) The municipality that created the authority establishes a
16 special assessment district whereby not less than 50% of the
17 operating expenses of the public facility described in this
18 subparagraph will be paid for by special assessments. Not less than
19 50% of the amount specially assessed against all parcels in the
20 special assessment district shall be assessed against parcels owned
21 by parties potentially responsible for the identified groundwater
22 contamination pursuant to law.

23 (v) A business incubator.

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

25 (r) "Governing body" means the elected body having legislative
26 powers of a municipality creating an authority under this act.

27 (s) "High technology activity" means that term as defined in

1 section 3 of the Michigan economic growth authority act, 1995 PA
2 24, MCL 207.803.

3 (t) "Initial assessed value" means the assessed value of the
4 eligible property identified in the tax increment financing plan
5 or, for a certified technology park, the assessed value of any real
6 and personal property included in the tax increment financing plan,
7 at the time the resolution establishing the tax increment financing
8 plan is approved as shown by the most recent assessment roll for
9 which equalization has been completed at the time the resolution is
10 adopted or, for property that becomes eligible property in other
11 than a certified technology park after the date the plan is
12 approved, at the time the property becomes eligible property.
13 Property exempt from taxation at the time of the determination of
14 the initial assessed value shall be included as zero. Property for
15 which a specific local tax is paid in lieu of property tax shall
16 not be considered exempt from taxation. The initial assessed value
17 of property for which a specific local tax was paid in lieu of
18 property tax shall be determined as provided in subdivision (cc).

19 (u) "Michigan economic development corporation" means the
20 public body corporate created under section 28 of article VII of
21 the state constitution of 1963 and the urban cooperation act of
22 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual
23 interlocal agreement effective April 5, 1999 between local
24 participating economic development corporations formed under the
25 economic development corporations act, 1974 PA 338, MCL 125.1601 to
26 125.1636, and the Michigan strategic fund. If the Michigan economic
27 development corporation is unable for any reason to perform its

1 duties under this act, those duties may be exercised by the
2 Michigan strategic fund.

3 (v) "Michigan strategic fund" means the Michigan strategic
4 fund as described in the Michigan strategic fund act, 1984 PA 270,
5 MCL 125.2001 to 125.2094.

6 (w) "Municipality" means a city, village, or urban township.

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

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

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

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

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

27 (v) A letter of credit, paying agent, transfer agent, bond

1 registrar, or trustee fee associated with a contract, agreement,
2 bond, or note.

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

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

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

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

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

22 (z) "Other protected obligation" means:

23 (i) A qualified refunding obligation issued to refund an
24 obligation described in subparagraph (ii) or (iii), an obligation that
25 is not a qualified refunding obligation that is issued to refund an
26 eligible obligation, or a qualified refunding obligation issued to
27 refund an obligation described in this subparagraph.

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

8 (iii) An obligation incurred by an authority or municipality
9 after August 19, 1993, to reimburse a party to a development
10 agreement entered into by a municipality or authority before August
11 19, 1993, for a project described in a tax increment financing plan
12 approved in accordance with this act before August 19, 1993, and
13 undertaken and installed by that party in accordance with the
14 development agreement.

15 (iv) An ongoing management or professional services contract
16 with the governing body of a county that was entered into before
17 March 1, 1994 and that was preceded by a series of limited term
18 management or professional services contracts with the governing
19 body of the county, the last of which was entered into before
20 August 19, 1993.

21 (aa) "Public facility" means 1 or more of the following:

22 (i) A street, road, bridge, storm water or sanitary sewer,
23 sewage treatment facility, facility designed to reduce, eliminate,
24 or prevent the spread of identified soil or groundwater
25 contamination, drainage system, retention basin, pretreatment
26 facility, waterway, waterline, water storage facility, rail line,
27 electric, gas, telephone or other communications, or any other type

1 of utility line or pipeline, or other similar or related structure
2 or improvement, together with necessary easements for the structure
3 or improvement. Except for rail lines, utility lines, or pipelines,
4 the structures or improvements described in this subparagraph shall
5 be either owned or used by a public agency, functionally connected
6 to similar or supporting facilities owned or used by a public
7 agency, or designed and dedicated to use by, for the benefit of, or
8 for the protection of the health, welfare, or safety of the public
9 generally, whether or not used by a single business entity. Any
10 road, street, or bridge shall be continuously open to public
11 access. A public facility shall be located on public property or in
12 a public, utility, or transportation easement or right-of-way.

13 (ii) The acquisition and disposal of land that is proposed or
14 intended to be used in the development of eligible property or an
15 interest in that land, demolition of structures, site preparation,
16 and relocation costs.

17 (iii) All administrative and real and personal property
18 acquisition and disposal costs related to a public facility
19 described in subparagraphs (i) and (iv), including, but not limited
20 to, architect's, engineer's, legal, and accounting fees as
21 permitted by the district's development plan.

22 (iv) An improvement to a facility used by the public or a
23 public facility as those terms are defined in section 1 of 1966 PA
24 1, MCL 125.1351, which improvement is made to comply with the
25 barrier free design requirements of the state construction code
26 promulgated under the Stille-DeRossett-Hale single state
27 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

1 (v) All of the following costs approved by the Michigan
2 ~~economic development corporation~~ **STRATEGIC FUND**:

3 (A) Operational costs and the costs related to the
4 acquisition, improvement, preparation, demolition, disposal,
5 construction, reconstruction, remediation, rehabilitation,
6 restoration, preservation, maintenance, repair, furnishing, and
7 equipping of land and other assets that are or may become eligible
8 for depreciation under the internal revenue code of 1986 for a
9 business incubator located in a certified technology park.

10 (B) Costs related to the acquisition, improvement,
11 preparation, demolition, disposal, construction, reconstruction,
12 remediation, rehabilitation, restoration, preservation,
13 maintenance, repair, furnishing, and equipping of land and other
14 assets that, if privately owned, would be eligible for depreciation
15 under the internal revenue code of 1986 for laboratory facilities,
16 research and development facilities, conference facilities,
17 teleconference facilities, testing, training facilities, and
18 quality control facilities that are or that support eligible
19 property under subdivision (p) (iii), that are owned by a public
20 entity, and that are located within a certified technology park.

21 (vi) Operating and planning costs included in a plan pursuant
22 to section 12(1)(f), including costs of marketing property within
23 the district and attracting development of eligible property within
24 the district.

25 (bb) "Qualified refunding obligation" means an obligation
26 issued or incurred by an authority or by a municipality on behalf
27 of an authority to refund an obligation if the refunding obligation

1 meets both of the following:

2 (i) The net present value of the principal and interest to be
3 paid on the refunding obligation, including the cost of issuance,
4 will be less than the net present value of the principal and
5 interest to be paid on the obligation being refunded, as calculated
6 using a method approved by the department of treasury.

7 (ii) The net present value of the sum of the tax increment
8 revenues described in subdivision (ee) (ii) and the distributions
9 under section 11a to repay the refunding obligation will not be
10 greater than the net present value of the sum of the tax increment
11 revenues described in subdivision (ee) (ii) and the distributions
12 under section 11a to repay the obligation being refunded, as
13 calculated using a method approved by the department of treasury.

14 (cc) "Specific local taxes" means a tax levied under 1974 PA
15 198, MCL 207.551 to 207.572, the obsolete property rehabilitation
16 act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial
17 redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the
18 enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA
19 189, MCL 211.181 to 211.182, and the technology park development
20 act, 1984 PA 385, MCL 207.701 to 207.718. The initial assessed
21 value or current assessed value of property subject to a specific
22 local tax is the quotient of the specific local tax paid divided by
23 the ad valorem millage rate. However, after 1993, the state tax
24 commission shall prescribe the method for calculating the initial
25 assessed value and current assessed value of property for which a
26 specific local tax was paid in lieu of a property tax.

27 (dd) "State fiscal year" means the annual period commencing

1 October 1 of each year.

2 (ee) "Tax increment revenues" means the amount of ad valorem
3 property taxes and specific local taxes attributable to the
4 application of the levy of all taxing jurisdictions upon the
5 captured assessed value of eligible property within the district
6 or, for purposes of a certified technology park, real or personal
7 property that is located within the certified technology park and
8 included within the tax increment financing plan, subject to the
9 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, 1993 PA 331, MCL 211.901 to 211.906,
14 and local or intermediate school districts, upon the captured
15 assessed value of real and personal property in the development
16 area for any purpose authorized by this act.

17 (ii) Tax increment revenues include ad valorem property taxes
18 and specific local taxes attributable to the application of the
19 levy of the state pursuant to the state education tax act, 1993 PA
20 331, MCL 211.901 to 211.906, and local or intermediate school
21 districts upon the captured assessed value of real and personal
22 property in the development area in an amount equal to the amount
23 necessary, without regard to subparagraph (i), for the following
24 purposes:

25 (A) To repay eligible advances, eligible obligations, and
26 other protected obligations.

27 (B) To fund or to repay an advance or obligation issued by or

1 on behalf of an authority to fund the cost of public facilities
2 related to or for the benefit of eligible property located within a
3 certified technology park to the extent the public facilities have
4 been included in an agreement under section 12a(3), not to exceed
5 50%, as determined by the state treasurer, of the amounts levied by
6 the state pursuant to the state education tax act, 1993 PA 331, MCL
7 211.901 to 211.906, and local and intermediate school districts for
8 a period not to exceed 15 years, as determined by the state
9 treasurer, if the state treasurer determines that the capture under
10 this subparagraph is necessary to reduce unemployment, promote
11 economic growth, and increase capital investment in the
12 municipality.

13 (iii) Tax increment revenues do not include any of the
14 following:

15 (A) Ad valorem property taxes or specific local taxes that are
16 excluded from and not made part of the tax increment financing
17 plan.

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

23 (C) Ad valorem property taxes exempted from capture under
24 section 4(3) or specific local taxes attributable to such ad
25 valorem property taxes.

26 (D) Ad valorem property taxes specifically levied for the
27 payment of principal and interest of obligations approved by the

1 electors or obligations pledging the unlimited taxing power of the
2 local governmental unit or specific local taxes attributable to
3 such ad valorem property taxes.

4 (E) The amount of ad valorem property taxes or specific taxes
5 captured by a downtown development authority under 1975 PA 197, MCL
6 125.1651 to 125.1681, tax increment financing authority under the
7 tax increment finance authority act, 1980 PA 450, MCL 125.1801 to
8 125.1830, or brownfield redevelopment authority under the
9 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
10 to 125.2672, if those taxes were captured by these other
11 authorities on the date that the initial assessed value of a parcel
12 of property was established under this act.

13 (iv) The amount of tax increment revenues authorized to be
14 included under subparagraph (ii), and required to be transmitted to
15 the authority under section 13(1), from ad valorem property taxes
16 and specific local taxes attributable to the application of the
17 levy of the state education tax act, 1993 PA 331, MCL 211.901 to
18 211.906, or a local school district or an intermediate school
19 district upon the captured assessed value of real and personal
20 property in a development area shall be determined separately for
21 the levy by the state, each school district, and each intermediate
22 school district as the product of sub-subparagraphs (A) and (B):

23 (A) The percentage that the total ad valorem taxes and
24 specific local taxes available for distribution by law to the
25 state, local school district, or intermediate school district,
26 respectively, bears to the aggregate amount of ad valorem millage
27 taxes and specific taxes available for distribution by law to the

1 state, each local school district, and each intermediate school
2 district.

3 (B) The maximum amount of ad valorem property taxes and
4 specific local taxes considered tax increment revenues under
5 subparagraph (ii).

6 (ff) "Urban township" means a township that meets 1 or more of
7 the following:

8 (i) Meets all of the following requirements:

9 (A) Has a population of 20,000 or more, or has a population of
10 10,000 or more but is located in a county with a population of
11 400,000 or more.

12 (B) Adopted a master zoning plan before February 1, 1987.

13 (C) Provides sewer, water, and other public services to all or
14 a part of the township.

15 (ii) Meets all of the following requirements:

16 (A) Has a population of less than 20,000.

17 (B) Is located in a county with a population of 250,000 or
18 more but less than 400,000, and that county is located in a
19 metropolitan statistical area.

20 (C) Has within its boundaries a parcel of property under
21 common ownership that is 800 acres or larger and is capable of
22 being served by a railroad, and located within 3 miles of a limited
23 access highway.

24 (D) Establishes an authority before December 31, 1998.

25 (iii) Meets all of the following requirements:

26 (A) Has a population of less than 20,000.

27 (B) Has a state equalized valuation for all real and personal

1 property located in the township of more than \$200,000,000.00.

2 (C) Adopted a master zoning plan before February 1, 1987.

3 (D) Is a charter township under the charter township act, 1947
4 PA 359, MCL 42.1 to 42.34.

5 (E) Has within its boundaries a combination of parcels under
6 common ownership that is 800 acres or larger, is immediately
7 adjacent to a limited access highway, is capable of being served by
8 a railroad, and is immediately adjacent to an existing sewer line.

9 (F) Establishes an authority before March 1, 1999.

10 (iv) Meets all of the following requirements:

11 (A) Has a population of 13,000 or more.

12 (B) Is located in a county with a population of 150,000 or
13 more.

14 (C) Adopted a master zoning plan before February 1, 1987.

15 (v) Meets all of the following requirements:

16 (A) Is located in a county with a population of 1,000,000 or
17 more.

18 (B) Has a written agreement with an adjoining township to
19 develop 1 or more public facilities on contiguous property located
20 in both townships.

21 (C) Has a master plan in effect.

22 (vi) Meets all of the following requirements:

23 (A) Has a population of less than 10,000.

24 (B) Has a state equalized valuation for all real and personal
25 property located in the township of more than \$280,000,000.00.

26 (C) Adopted a master zoning plan before February 1, 1987.

27 (D) Has within its boundaries a combination of parcels under

1 common ownership that is 199 acres or larger, is located within 1
2 mile of a limited access highway, and is located within 1 mile of
3 an existing sewer line.

4 (E) Has rail service.

5 (F) Establishes an authority before May 7, 2009.

6 Sec. 12. (1) If the board determines that it is necessary for
7 the achievement of the purposes of this act, the board shall
8 prepare and submit a tax increment financing plan to the governing
9 body. The plan shall be in compliance with section 13 and shall
10 include a development plan as provided in section 15. The plan
11 shall also contain the following:

12 (a) A statement of the reasons that the plan will result in
13 the development of captured assessed value that could not otherwise
14 be expected. The reasons may include, but are not limited to,
15 activities of the municipality, authority, or others undertaken
16 before formulation or adoption of the plan in reasonable
17 anticipation that the objectives of the plan would be achieved by
18 some means.

19 (b) An estimate of the captured assessed value for each year
20 of the plan. The plan may provide for the use of part or all of the
21 captured assessed value or, subject to subsection (3), of the tax
22 increment revenues attributable to the levy of any taxing
23 jurisdiction, but the portion intended to be used shall be clearly
24 stated in the plan. The board or the municipality creating the
25 authority may exclude from captured assessed value a percentage of
26 captured assessed value as specified in the plan or growth in
27 property value resulting solely from inflation. If excluded, the

1 plan shall set forth the method for excluding growth in property
2 value resulting solely from inflation.

3 (c) The estimated tax increment revenues for each year of the
4 plan.

5 (d) A detailed explanation of the tax increment procedure.

6 (e) The maximum amount of note or bonded indebtedness to be
7 incurred, if any.

8 (f) The amount of operating and planning expenditures of the
9 authority and municipality, the amount of advances extended by or
10 indebtedness incurred by the municipality, and the amount of
11 advances by others to be repaid from tax increment revenues.

12 (g) The costs of the plan anticipated to be paid from tax
13 increment revenues as received.

14 (h) The duration of the development plan and the tax increment
15 plan.

16 (i) An estimate of the impact of tax increment financing on
17 the revenues of all taxing jurisdictions in which the eligible
18 property is or is anticipated to be located.

19 (j) A legal description of the eligible property to which the
20 tax increment financing plan applies or shall apply upon
21 qualification as eligible property.

22 (k) An estimate of the number of jobs to be created as a
23 result of implementation of the tax increment financing plan.

24 (l) The proposed boundaries of a certified technology park to
25 be created under an agreement proposed to be entered into pursuant
26 to section 12a, an identification of the real property within the
27 certified technology park to be included in the tax increment

1 financing plan for purposes of determining tax increment revenues,
2 and whether personal property located in the certified technology
3 park is exempt from determining tax increment revenues.

4 (2) Except as provided in subsection (7), a tax increment
5 financing plan shall provide for the use of tax increment revenues
6 for public facilities for eligible property whose captured assessed
7 value produces the tax increment revenues or, to the extent the
8 eligible property is located within a business development area,
9 for other eligible property located in the business development
10 area. Public facilities for eligible property include the
11 development or improvement of access to and around, or within the
12 eligible property, of road facilities reasonably required by
13 traffic flow to be generated by the eligible property, and the
14 development or improvement of public facilities that are necessary
15 to service the eligible property, whether or not located on that
16 eligible property. If the eligible property identified in the tax
17 increment financing plan is property to which section 2(p)(iv)
18 applies, the tax increment financing plan shall not provide for the
19 use of tax increment revenues for public facilities other than
20 those described in the development plan as of April 1, 1991.
21 Whether or not provided in the tax increment financing plan, if the
22 eligible property identified in the tax increment financing plan is
23 property to which section 2(p)(iv) applies, then to the extent that
24 captured tax increment revenues are utilized for the costs of
25 cleanup of identified soil and groundwater contamination, the
26 captured tax increment revenues shall be first credited against the
27 shares of responsibility for the total costs of cleanup of

1 uncollectible parties who are responsible for the identified soil
2 and groundwater contamination pursuant to law, and then shall be
3 credited on a pro rata basis against the shares of responsibility
4 for the total costs of cleanup of other parties who are responsible
5 for the identified soil and groundwater contamination pursuant to
6 law.

7 (3) The percentage of taxes levied for school operating
8 purposes that is captured and used by the tax increment financing
9 plan and the tax increment financing plans under 1975 PA 197, MCL
10 125.1651 to 125.1681, the tax increment finance authority act, 1980
11 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment
12 financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall not be
13 greater than the percentage capture and use of taxes levied by a
14 municipality or county for operating purposes under the tax
15 increment financing plan and tax increment financing plans under
16 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance
17 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the
18 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
19 to 125.2672. For purposes of the previous sentence, taxes levied by
20 a county for operating purposes include only millage allocated for
21 county or charter county purposes under the property tax limitation
22 act, 1933 PA 62, MCL 211.201 to 211.217a.

23 (4) Except as otherwise provided by this subsection, approval
24 of the tax increment financing plan shall be in accordance with the
25 notice, hearing, disclosure, and approval provisions of sections 16
26 and 17. If the development plan is part of the tax increment
27 financing plan, only 1 hearing and approval procedure is required

1 for the 2 plans together. For a plan submitted by an authority
2 established by 2 or more municipalities under sections 3(2) and
3 4(7), the notice required by section 16 may be published jointly by
4 the municipalities in which the authority district is located. The
5 plan shall not be considered approved unless each governing body in
6 which the authority district is located makes the determinations
7 required by section 17 and approves the same plan, including the
8 same modifications, if any, made to the plan by any other governing
9 body.

10 (5) Before the public hearing on the tax increment financing
11 plan, the governing body shall provide a reasonable opportunity to
12 the taxing jurisdictions levying taxes subject to capture to
13 express their views and recommendations regarding the tax increment
14 financing plan. The authority shall fully inform the taxing
15 jurisdictions about the fiscal and economic implications of the
16 proposed tax increment financing plan. The taxing jurisdictions may
17 present their recommendations at the public hearing on the tax
18 increment financing plan. The authority may enter into agreements
19 with the taxing jurisdictions and the governing body of the
20 municipality in which the authority district is located to share a
21 portion of the captured assessed value of the district or to
22 distribute tax increment revenues among taxing jurisdictions. Upon
23 adoption of the plan, the collection and transmission of the amount
24 of tax increment revenues, as specified in this act, shall be
25 binding on all taxing units levying ad valorem property taxes or
26 specific local taxes against property located in the authority
27 district.

1 (6) Property qualified as a public facility under section
2 2(aa)(ii) that is acquired by an authority may be sold, conveyed, or
3 otherwise disposed to any person, public or private, for fair
4 market value or reasonable monetary consideration established by
5 the authority with the concurrence of the Michigan ~~economic~~
6 ~~development corporation~~ **STRATEGIC FUND** and the municipality in
7 which the eligible property is located based on a fair market value
8 appraisal from a fee appraiser only if the property is sold for
9 fair market value. Unless the property acquired by an authority was
10 located within a certified business park or a certified technology
11 park at the time of disposition, an authority shall remit all
12 monetary proceeds received from the sale or disposition of property
13 that qualified as a public facility under section 2(aa)(ii) and was
14 purchased with tax increment revenues to the taxing jurisdictions.
15 Proceeds distributed to taxing jurisdictions shall be remitted in
16 proportion to the amount of tax increment revenues attributable to
17 each taxing jurisdiction in the year the property was acquired. If
18 the property was acquired in part with funds other than tax
19 increment revenues, only that portion of the monetary proceeds
20 received upon disposition that represent the proportion of the cost
21 of acquisition paid with tax increment revenues is required to be
22 remitted to taxing jurisdictions. If the property is located within
23 a certified business park or certified technology park at the time
24 of disposition, the monetary proceeds received from the sale or
25 disposition of that property may be retained by the authority for
26 any purpose necessary to further the development program for the
27 certified business park or certified technology park in accordance

1 with the tax increment financing plan.

2 (7) The tax increment financing plan may provide for the use
3 of tax increment revenues from a certified technology park for
4 public facilities for any eligible property located in the
5 certified technology park.

6 (8) If title to property qualified as a public facility under
7 section 2(aa) (ii) and acquired by an authority with tax increment
8 revenues is sold, conveyed, or otherwise disposed of pursuant to
9 subsection (6) for less than fair market value, the authority shall
10 enter into an agreement relating to the use of the property with
11 the person to whom the property is sold, conveyed, or disposed of,
12 which agreement shall include a penalty provision addressing
13 repayment to the authority if any interest in the property is sold,
14 conveyed, or otherwise disposed of by the person within 12 years
15 after the person received title to the property from the authority.
16 This subsection shall not require enforcement of a penalty
17 provision for a conveyance incident to a merger, acquisition,
18 reorganization, sale-lease back transaction, employee stock
19 ownership plan, or other change in corporate or business form or
20 structure.

21 (9) The penalty provision described in subsection (8) shall
22 not be less than an amount equal to the difference between the fair
23 market value of the property when originally sold, conveyed, or
24 otherwise disposed of and the actual consideration paid by the
25 person to whom the property was originally sold, conveyed, or
26 otherwise disposed of.

27 Sec. 12a. (1) A municipality that has created an authority may

1 apply to the Michigan ~~economic development corporation~~ **STRATEGIC**
2 **FUND** for designation of all or a portion of the authority district
3 as a certified technology park and to enter into an agreement
4 governing the terms and conditions of the designation. The form of
5 the application shall be in a form specified by the Michigan
6 ~~economic development corporation~~ **STRATEGIC FUND** and shall include
7 information the Michigan ~~economic development corporation~~ **STRATEGIC**
8 **FUND** determines necessary to make the determinations required under
9 this section.

10 (2) After receipt of an application, the Michigan ~~economic~~
11 ~~development corporation~~ **STRATEGIC FUND** may designate, pursuant to
12 an agreement entered into under subsection (3), a certified
13 technology park that is determined by the Michigan ~~economic~~
14 ~~development corporation~~ **STRATEGIC FUND** to satisfy 1 or more of the
15 following criteria based on the application:

16 (a) A demonstration of significant support from an institution
17 of higher education or a private research-based institute located
18 within the proximity of the proposed certified technology park, as
19 evidenced by, but not limited to, the following types of support:

20 (i) Grants of preferences for access to and commercialization
21 of intellectual property.

22 (ii) Access to laboratory and other facilities owned by or
23 under control of the institution of higher education or private
24 research-based institute.

25 (iii) Donations of services.

26 (iv) Access to telecommunication facilities and other
27 infrastructure.

1 (v) Financial commitments.

2 (vi) Access to faculty, staff, and students.

3 (vii) Opportunities for adjunct faculty and other types of
4 staff arrangements or affiliations.

5 (b) A demonstration of a significant commitment on behalf of
6 the institution of higher education or private research-based
7 institute to the commercialization of research produced at the
8 certified technology park, as evidenced by the intellectual
9 property and, if applicable, tenure policies that reward faculty
10 and staff for commercialization and collaboration with private
11 businesses.

12 (c) A demonstration that the proposed certified technology
13 park will be developed to take advantage of the unique
14 characteristics and specialties offered by the public and private
15 resources available in the area in which the proposed certified
16 technology park will be located.

17 (d) The existence of or proposed development of a business
18 incubator within the proposed certified technology park that
19 exhibits the following types of resources and organization:

20 (i) Significant financial and other types of support from the
21 public or private resources in the area in which the proposed
22 certified technology park will be located.

23 (ii) A business plan exhibiting the economic utilization and
24 availability of resources and a likelihood of successful
25 development of technologies and research into viable business
26 enterprises.

27 (iii) A commitment to the employment of a qualified full-time

1 manager to supervise the development and operation of the business
2 incubator.

3 (e) The existence of a business plan for the proposed
4 certified technology park that identifies its objectives in a
5 clearly focused and measurable fashion and that addresses the
6 following matters:

7 (i) A commitment to new business formation.

8 (ii) The clustering of businesses, technology, and research.

9 (iii) The opportunity for and costs of development of properties
10 under common ownership or control.

11 (iv) The availability of and method proposed for development of
12 infrastructure and other improvements, including telecommunications
13 technology, necessary for the development of the proposed certified
14 technology park.

15 (v) Assumptions of costs and revenues related to the
16 development of the proposed certified technology park.

17 (f) A demonstrable and satisfactory assurance that the
18 proposed certified technology park can be developed to principally
19 contain eligible property as defined by section 2(p) (iii) and (v).

20 (3) An authority and a municipality that incorporated the
21 authority may enter into an agreement with the Michigan ~~economic~~
22 ~~development corporation~~ **STRATEGIC FUND** establishing the terms and
23 conditions governing the certified technology park. Upon
24 designation of the certified technology park pursuant to the terms
25 of the agreement, the subsequent failure of any party to comply
26 with the terms of the agreement shall not result in the termination
27 or rescission of the designation of the area as a certified

1 technology park. The agreement shall include, but is not limited
2 to, the following provisions:

3 (a) A description of the area to be included within the
4 certified technology park.

5 (b) Covenants and restrictions, if any, upon all or a portion
6 of the properties contained within the certified technology park
7 and terms of enforcement of any covenants or restrictions.

8 (c) The financial commitments of any party to the agreement
9 and of any owner or developer of property within the certified
10 technology park.

11 (d) The terms of any commitment required from an institution
12 of higher education or private research-based institute for support
13 of the operations and activities at eligible properties within the
14 certified technology park.

15 (e) The terms of enforcement of the agreement, which may
16 include the definition of events of default, cure periods, legal
17 and equitable remedies and rights, and penalties and damages,
18 actual or liquidated, upon the occurrence of an event of default.

19 (f) The public facilities to be developed for the certified
20 technology park.

21 (g) The costs approved for public facilities under section
22 2(aa).

23 (4) If the Michigan ~~economic development corporation~~ **STRATEGIC**
24 **FUND** has determined that a sale price or rental value at below
25 market rate will assist in increasing employment or private
26 investment in the certified technology park, the authority and
27 municipality have authority to determine the sale price or rental

1 value for public facilities owned or developed by the authority and
2 municipality in the certified technology park at below market rate.

3 (5) If public facilities developed pursuant to an agreement
4 entered into under this section are conveyed or leased at less than
5 fair market value or at below market rates, the terms of the
6 conveyance or lease shall include legal and equitable remedies and
7 rights to assure the public facilities are used as eligible
8 property. Legal and equitable remedies and rights may include
9 penalties and actual or liquidated damages.

10 (6) Except as otherwise provided in this section, an agreement
11 designating a certified technology park may not be made after
12 December 31, 2002, but any agreement made on or before December 31,
13 2002 may be amended after that date. However, the Michigan economic
14 development corporation may enter into an agreement with a
15 municipality after December 31, 2002 and on or before December 31,
16 2005 if that municipality has adopted a resolution of interest to
17 create a certified technology park before December 31, 2002.

18 (7) The Michigan ~~economic development corporation~~ **STRATEGIC**
19 **FUND** shall market the certified technology parks and the certified
20 business parks. The Michigan ~~economic development corporation~~
21 **STRATEGIC FUND** and an authority may contract with each other or any
22 third party for these marketing services.

23 (8) Except as otherwise provided in subsections (9) and (10),
24 the Michigan ~~economic development corporation~~ **STRATEGIC FUND** shall
25 not designate more than 10 certified technology parks. For purposes
26 of this subsection only, 2 certified technology parks located in a
27 county that contains a city with a population of more than 750,000,

1 shall be counted as 1 certified technology park. Not more than 7 of
2 the certified technology parks designated under this section may
3 not include a firm commitment from at least 1 business engaged in a
4 high technology activity creating a significant number of jobs.

5 (9) The Michigan economic development corporation may
6 designate an additional 5 certified technology parks after November
7 1, 2002 and before December 31, 2007. The Michigan economic
8 development corporation shall not accept applications for the
9 additional certified technology parks under this subsection until
10 after November 1, 2002.

11 (10) The Michigan ~~economic development corporation~~ **STRATEGIC**
12 **FUND** may designate an additional 3 certified technology parks after
13 February 1, 2008 and before December 31, 2008. The Michigan
14 ~~economic development corporation~~ **STRATEGIC FUND** shall not accept
15 applications for the additional certified technology parks under
16 this subsection until after February 1, 2008.

17 (11) The Michigan ~~economic development corporation~~ **STRATEGIC**
18 **FUND** shall give priority to applications that include new business
19 activity.

20 (12) For an authority established by 2 or more municipalities
21 under sections 3(2) and 4(7), each municipality in which the
22 authority district is located by a majority vote of the members of
23 its governing body may make a limited tax pledge to support the
24 authority's tax increment bonds issued under section 14 or, if
25 authorized by the voters of the municipality, may pledge its full
26 faith and credit for the payment of the principal of and interest
27 on the bonds. The municipalities that have made a pledge to support

1 the authority's tax increment bonds may approve by resolution an
2 agreement among themselves establishing obligations each may have
3 to the other party or parties to the agreement for reimbursement of
4 all or any portion of a payment made by a municipality related to
5 its pledge to support the authority's tax increment bonds.

6 (13) Not including certified technology parks designated under
7 subsection (8), but for certified technology parks designated under
8 subsections (9) and (10) only, this state shall do all of the
9 following:

10 (a) Reimburse intermediate school districts each year for all
11 tax revenue lost that was captured by an authority for a certified
12 technology park designated by the Michigan economic development
13 corporation **OR MICHIGAN STRATEGIC FUND** after October 3, 2002.

14 (b) Reimburse local school districts each year for all tax
15 revenue lost that was captured by an authority for a certified
16 technology park designated by the Michigan economic development
17 corporation **OR MICHIGAN STRATEGIC FUND** after October 3, 2002.

18 (c) Reimburse the school aid fund from funds other than those
19 appropriated in section 11 of the state school aid act of 1979,
20 1979 PA 94, MCL 388.1611, for an amount equal to the reimbursement
21 calculations under subdivisions (a) and (b) and for all revenue
22 lost that was captured by an authority for a certified technology
23 park designated by the Michigan economic development corporation **OR**
24 **MICHIGAN STRATEGIC FUND** after October 3, 2002. Foundation
25 allowances calculated under section 20 of the state school aid act
26 of 1979, 1979 PA 94, MCL 388.1620, shall not be reduced as a result
27 of tax revenue lost that was captured by an authority for a

1 certified technology park designated by the Michigan economic
2 development corporation **OR MICHIGAN STRATEGIC FUND** under subsection
3 (9) or (10) after October 3, 2002.