

HOUSE BILL No. 5246

January 17, 2012, Introduced by Rep. Wayne Schmidt and referred to the Committee on Commerce.

A bill to amend 1986 PA 281, entitled "The local development financing act," by amending sections 2, 4, 11b, 12, 12a, 12c, and 12c (MCL 125.2152, 125.2154, 125.2161b, 125.2162, 125.2162a, 125.2162c, and 125.2162c[1]), section 2 as amended by 2010 PA 376, sections 4 and 12 as amended and section 12c as added by 2010 PA 276, section 11b as amended by 2010 PA 127, and section 12a as amended and section 12c as added by 2009 PA 162.

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

1 agreement to repay, provisions contained in a tax increment
2 financing plan approved prior to the advance, or a resolution of
3 the authority or the municipality.

4 (b) "Alternative energy technology" means equipment, component
5 parts, materials, electronic devices, testing equipment, and
6 related systems that are specifically designed, specifically
7 fabricated, and used primarily for 1 or more of the following:

8 (i) The storage, generation, reformation, or distribution of
9 clean fuels integrated within an alternative energy system or
10 alternative energy vehicle, not including an anaerobic digester
11 energy system or a hydroelectric energy system, for use within the
12 alternative energy system or alternative energy vehicle.

13 (ii) The process of generating and putting into a usable form
14 the energy generated by an alternative energy system. Alternative
15 energy technology does not include those component parts of an
16 alternative energy system that are required regardless of the
17 energy source.

18 (iii) Research and development of an alternative energy vehicle.

19 (iv) Research, development, and manufacturing of an alternative
20 energy system.

21 (v) Research, development, and manufacturing of an anaerobic
22 digester energy system.

23 (vi) Research, development, and manufacturing of a
24 hydroelectric energy system.

25 (c) "Alternative energy technology business" means a business
26 engaged in the research, development, or manufacturing of
27 alternative energy technology.

1 (d) "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 211.155.

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

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

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

13 (h) "Business development area" means an area designated as a
14 certified industrial park under this act prior to June 29, 2000, or
15 an area designated in the tax increment financing plan that meets
16 all of the following requirements:

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

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

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

22 (i) Is located in a certified technology park or a certified
23 alternative energy park.

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

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 (s) (iii) .

2 (j) "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, **A CERTIFIED ALTERNATIVE ENERGY PARK**, or a next
6 Michigan development area, the real and personal property included
7 in the tax increment financing plan, including the current assessed
8 value of property for which specific local taxes are paid in lieu
9 of property taxes as determined pursuant to subdivision (hh),
10 exceeds the initial assessed value. The state tax commission shall
11 prescribe the method for calculating captured assessed value.
12 Except as otherwise provided in this act, tax abated property in a
13 renaissance zone as defined under section 3 of the Michigan
14 renaissance zone act, 1996 PA 376, MCL 125.2683, shall be excluded
15 from the calculation of captured assessed value to the extent that
16 the property is exempt from ad valorem property taxes or specific
17 local taxes.

18 (k) "Certified alternative energy park" means that portion of
19 an authority district designated by a written agreement entered
20 into pursuant to section 12c between the authority, the
21 municipality or municipalities, and the Michigan economic
22 development corporation.

23 (l) "Certified business park" means a business development area
24 that has been designated by the Michigan economic development
25 corporation as meeting criteria established by the Michigan
26 economic development corporation. The criteria shall establish
27 standards for business development areas including, but not limited

1 to, use, types of building materials, landscaping, setbacks,
2 parking, storage areas, and management.

3 (m) "Certified technology park" means that portion of the
4 authority district designated by a written agreement entered into
5 pursuant to section 12a between the authority, the municipality,
6 and the Michigan economic development corporation.

7 (n) "Chief executive officer" means the mayor or city manager
8 of a city, the president of a village, or, for other local units of
9 government or school districts, the person charged by law with the
10 supervision of the functions of the local unit of government or
11 school district.

12 (o) "Development plan" means that information and those
13 requirements for a development set forth in section 15.

14 (p) "Development program" means the implementation of a
15 development plan.

16 (q) "Eligible advance" means an advance made before August 19,
17 1993.

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

25 (s) "Eligible property" means land improvements, buildings,
26 structures, and other real property, and machinery, equipment,
27 furniture, and fixtures, or any part or accessory thereof whether

1 completed or in the process of construction comprising an
2 integrated whole, located within an authority district, of which
3 the primary purpose and use is or will be 1 of the following:

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

6 (ii) Agricultural processing.

7 (iii) A high technology activity.

8 (iv) The production of energy by the processing of goods or
9 materials by physical or chemical change by a small power
10 production facility as defined by the federal energy regulatory
11 commission pursuant to the public utility regulatory policies act
12 of 1978, Public Law 95-617, which facility is fueled primarily by
13 biomass or wood waste. This act does not affect a person's rights
14 or liabilities under law with respect to groundwater contamination
15 described in this subparagraph. This subparagraph applies only if
16 all of the following requirements are met:

17 (A) Tax increment revenues captured from the eligible property
18 will be used to finance, or will be pledged for debt service on tax
19 increment bonds used to finance, a public facility in or near the
20 authority district designed to reduce, eliminate, or prevent the
21 spread of identified soil and groundwater contamination, pursuant
22 to law.

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

27 (C) The municipality that created the authority establishes a

1 special assessment district whereby not less than 50% of the
2 operating expenses of the public facility described in this
3 subparagraph will be paid for by special assessments. Not less than
4 50% of the amount specially assessed against all parcels in the
5 special assessment district shall be assessed against parcels owned
6 by parties potentially responsible for the identified groundwater
7 contamination pursuant to law.

8 (v) A business incubator.

9 (vi) An alternative energy technology business.

10 (vii) A transit-oriented facility.

11 (viii) A transit-oriented development.

12 (ix) An eligible next Michigan business, as that term is
13 defined in section 3 of the Michigan economic growth authority act,
14 1995 PA 24, MCL 207.803, and other businesses within a next
15 Michigan development area, but only to the extent designated as
16 eligible property within a development plan approved by a next
17 Michigan development corporation.

18 (t) "Fiscal year" means the fiscal year of the authority.

19 (u) "Governing body" means, except as otherwise provided in
20 this subdivision, the elected body having legislative powers of a
21 municipality creating an authority under this act. For a next
22 Michigan development corporation, governing body means the
23 executive committee of the next Michigan development corporation,
24 unless otherwise provided in the interlocal agreement or articles
25 of incorporation creating the next Michigan development corporation
26 or the governing body of an eligible urban entity or its designee
27 as provided in the next Michigan development act, **2010 PA 275, MCL**

1 125.2951 TO 125.2959.

2 (v) "High-technology activity" means that term as defined in
3 section 3 of the Michigan economic growth authority act, 1995 PA
4 24, MCL 207.803.

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

23 (x) "Michigan economic development corporation" means the
24 public body corporate created under section 28 of article VII of
25 the state constitution of 1963 and the urban cooperation act of
26 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual
27 interlocal agreement effective April 5, 1999 between local

1 participating economic development corporations formed under the
2 economic development corporations act, 1974 PA 338, MCL 125.1601 to
3 125.1636, and the Michigan strategic fund. If the Michigan economic
4 development corporation is unable for any reason to perform its
5 duties under this act, those duties may be exercised by the
6 Michigan strategic fund.

7 (y) "Michigan strategic fund" means the Michigan strategic
8 fund as described in the Michigan strategic fund act, 1984 PA 270,
9 MCL 125.2001 to 125.2094.

10 (z) "Municipality" means a city, village, or urban township.
11 However, for purposes of creating and operating a certified
12 alternative energy park **OR A CERTIFIED TECHNOLOGY PARK**,
13 municipality includes townships that are not urban townships.

14 (aa) "Next Michigan development area" means a portion of an
15 authority district designated by a next Michigan development
16 corporation under section ~~12e~~**12E** to which a development plan is
17 applicable.

18 (bb) "Next Michigan development corporation" means that term
19 as defined in section 3 of the next Michigan development act, **2010**
20 **PA 275, MCL 125.2953.**

21 (cc) "Obligation" means a written promise to pay, whether
22 evidenced by a contract, agreement, lease, sublease, bond, or note,
23 or a requirement to pay imposed by law. An obligation does not
24 include a payment required solely because of default upon an
25 obligation, employee salaries, or consideration paid for the use of
26 municipal offices. An obligation does not include those bonds that
27 have been economically defeased by refunding bonds issued under

1 this act. Obligation includes, but is not limited to, the
2 following:

3 (i) A requirement to pay proceeds derived from ad valorem
4 property taxes or taxes levied in lieu of ad valorem property
5 taxes.

6 (ii) A management contract or a contract for professional
7 services.

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

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

14 (v) A letter of credit, paying agent, transfer agent, bond
15 registrar, or trustee fee associated with a contract, agreement,
16 bond, or note.

17 (dd) "On behalf of an authority", in relation to an eligible
18 advance made by a municipality or an eligible obligation or other
19 protected obligation issued or incurred by a municipality, means in
20 anticipation that an authority would transfer tax increment
21 revenues or reimburse the municipality from tax increment revenues
22 in an amount sufficient to fully make payment required by the
23 eligible advance made by a municipality, or eligible obligation or
24 other protected obligation issued or incurred by the municipality,
25 if the anticipation of the transfer or receipt of tax increment
26 revenues from the authority is pursuant to or evidenced by 1 or
27 more of the following:

1 (i) A reimbursement agreement between the municipality and an
2 authority it established.

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

5 (iii) A resolution of the authority agreeing to make payments to
6 the incorporating unit.

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

9 (ee) "Other protected obligation" means:

10 (i) A qualified refunding obligation issued to refund an
11 obligation described in subparagraph (ii) or (iii), an obligation that
12 is not a qualified refunding obligation that is issued to refund an
13 eligible obligation, or a qualified refunding obligation issued to
14 refund an obligation described in this subparagraph.

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

22 (iii) An obligation incurred by an authority or municipality
23 after August 19, 1993, to reimburse a party to a development
24 agreement entered into by a municipality or authority before August
25 19, 1993, for a project described in a tax increment financing plan
26 approved in accordance with this act before August 19, 1993, and
27 undertaken and installed by that party in accordance with the

1 development agreement.

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

8 (ff) "Public facility" means 1 or more of the following:

9 (i) A street, road, bridge, storm water or sanitary sewer,
10 sewage treatment facility, facility designed to reduce, eliminate,
11 or prevent the spread of identified soil or groundwater
12 contamination, drainage system, retention basin, pretreatment
13 facility, waterway, waterline, water storage facility, rail line,
14 electric, gas, telephone or other communications, or any other type
15 of utility line or pipeline, transit-oriented facility, transit-
16 oriented development, or other similar or related structure or
17 improvement, together with necessary easements for the structure or
18 improvement. Except for rail lines, utility lines, or pipelines,
19 the structures or improvements described in this subparagraph shall
20 be either owned or used by a public agency, functionally connected
21 to similar or supporting facilities owned or used by a public
22 agency, or designed and dedicated to use by, for the benefit of, or
23 for the protection of the health, welfare, or safety of the public
24 generally, whether or not used by a single business entity. Any
25 road, street, or bridge shall be continuously open to public
26 access. A public facility shall be located on public property or in
27 a public, utility, or transportation easement or right-of-way.

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

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

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

16 (v) All of the following costs approved by the Michigan
17 economic development corporation:

18 (A) Operational costs and the costs related to the
19 acquisition, improvement, preparation, demolition, disposal,
20 construction, reconstruction, remediation, rehabilitation,
21 restoration, preservation, maintenance, repair, furnishing, and
22 equipping of land and other assets that are or may become eligible
23 for depreciation under the internal revenue code of 1986 for a
24 business incubator located in a certified technology park or
25 certified alternative energy park.

26 (B) Costs related to the acquisition, improvement,
27 preparation, demolition, disposal, construction, reconstruction,

1 remediation, rehabilitation, restoration, preservation,
2 maintenance, repair, furnishing, and equipping of land and other
3 assets that, if privately owned, would be eligible for depreciation
4 under the internal revenue code of 1986 for laboratory facilities,
5 research and development facilities, conference facilities,
6 teleconference facilities, testing, training facilities, and
7 quality control facilities that are or that support eligible
8 property under subdivision (s) (iii), that are owned by a public
9 entity, and that are located within a certified technology park.

10 (C) 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 facilities that are or
16 that will support eligible property under subdivision (s) (vi), that
17 have been or will be owned by a public entity at the time such
18 costs are incurred, that are located within a certified alternative
19 energy park, and that have been or will be conveyed, by gift or
20 sale, by such public entity to an alternative energy technology
21 business.

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

26 (gg) "Qualified refunding obligation" means an obligation
27 issued or incurred by an authority or by a municipality on behalf

1 of an authority to refund an obligation if the refunding obligation
2 meets both of the following:

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

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

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

1 (ii) "State fiscal year" means the annual period commencing
2 October 1 of each year.

3 (jj) "Tax increment revenues" means the amount of ad valorem
4 property taxes and specific local taxes attributable to the
5 application of the levy of all taxing jurisdictions upon the
6 captured assessed value of eligible property within the district
7 or, for purposes of a certified technology park, a next Michigan
8 development area, or a certified alternative energy park, real or
9 personal property that is located within the certified technology
10 park, a next Michigan development area, or a certified alternative
11 energy park and included within the tax increment financing plan,
12 subject to the following requirements:

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

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

1 (A) To repay eligible advances, eligible obligations, and
2 other protected obligations.

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

16 (C) To fund the cost of public facilities related to or for
17 the benefit of eligible property located within a next Michigan
18 development area to the extent that the public facilities have been
19 included in a development plan, not to exceed 50%, as determined by
20 the state treasurer, of the amounts levied by the state pursuant to
21 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
22 and local and intermediate school districts for a period not to
23 exceed 15 years, as determined by the state treasurer, if the state
24 treasurer determines that the capture under this sub-subparagraph
25 is necessary to reduce unemployment, promote economic growth, and
26 increase capital investment in the authority district.

27 (iii) Tax increment revenues do not include any of the

1 following:

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

5 (B) Ad valorem property taxes and specific local taxes
6 attributable to ad valorem property taxes excluded by the tax
7 increment financing plan of the authority from the determination of
8 the amount of tax increment revenues to be transmitted to the
9 authority.

10 (C) Ad valorem property taxes exempted from capture under
11 section 4(3) or specific local taxes attributable to such ad
12 valorem property taxes.

13 (D) Ad valorem property taxes specifically levied for the
14 payment of principal and interest of obligations approved by the
15 electors or obligations pledging the unlimited taxing power of the
16 local governmental unit or specific local taxes attributable to
17 such ad valorem property taxes.

18 (E) The amount of ad valorem property taxes or specific taxes
19 captured by a downtown development authority under 1975 PA 197, MCL
20 125.1651 to 125.1681, tax increment financing authority under the
21 tax increment finance authority act, 1980 PA 450, MCL 125.1801 to
22 125.1830, or brownfield redevelopment authority under the
23 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
24 to 125.2672, if those taxes were captured by these other
25 authorities on the date that the initial assessed value of a parcel
26 of property was established under this act.

27 (iv) The amount of tax increment revenues authorized to be

1 included under subparagraph (ii), and required to be transmitted to
2 the authority under section 13(1), from ad valorem property taxes
3 and specific local taxes attributable to the application of the
4 levy of the state education tax act, 1993 PA 331, MCL 211.901 to
5 211.906, or a local school district or an intermediate school
6 district upon the captured assessed value of real and personal
7 property in a development area shall be determined separately for
8 the levy by the state, each school district, and each intermediate
9 school district as the product of sub-subparagraphs (A) and (B):

10 (A) The percentage that the total ad valorem taxes and
11 specific local taxes available for distribution by law to the
12 state, local school district, or intermediate school district,
13 respectively, bears to the aggregate amount of ad valorem millage
14 taxes 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
18 specific local taxes considered tax increment revenues under
19 subparagraph (ii).

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

25 (ll) "Transit-oriented facility" means a facility that houses a
26 transit station in a manner that promotes transit ridership or
27 passenger rail use.

1 (mm) "Urban township" means a township that meets 1 or more of
2 the following:

3 (i) Meets all of the following requirements:

4 (A) Has a population of 20,000 or more, or has a population of
5 10,000 or more but is located in a county with a population of
6 400,000 or more.

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

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

10 (ii) Meets all of the following requirements:

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

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

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

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

20 (iii) Meets all of the following requirements:

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

22 (B) Has a state equalized valuation for all real and personal
23 property located in the township of more than \$200,000,000.00.

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

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

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

1 common ownership that is 800 acres or larger, is immediately
2 adjacent to a limited access highway, is capable of being served by
3 a railroad, and is immediately adjacent to an existing sewer line.

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

5 (iv) Meets all of the following requirements:

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

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

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

10 (v) Meets all of the following requirements:

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

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

16 (C) Has a master plan in effect.

17 (vi) Meets all of the following requirements:

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

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

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

22 (D) Has within its boundaries a combination of parcels under
23 common ownership that is 199 acres or larger, is located within 1
24 mile of a limited access highway, and is located within 1 mile of
25 an existing sewer line.

26 (E) Has rail service.

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

1 (vii) Has joined an authority under section 3(2) which is
2 seeking or has entered into an agreement for a certified
3 ~~alternative energy~~ **TECHNOLOGY** park.

4 **(viii) HAS ESTABLISHED AN AUTHORITY WHICH IS SEEKING OR HAS**
5 **ENTERED INTO AN AGREEMENT FOR A CERTIFIED ALTERNATIVE ENERGY PARK.**

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

10 (2) In the resolution of intent, the governing body proposing
11 to create the authority shall set a date for holding a public
12 hearing on the adoption of a proposed resolution creating the
13 authority and designating the boundaries of the authority district
14 or districts. Notice of the public hearing shall be published twice
15 in a newspaper of general circulation in the municipality, not less
16 than 20 nor more than 40 days before the date of the hearing.
17 Except as otherwise provided in subsection (8), not less than 20
18 days before the hearing, the governing body proposing to create the
19 authority shall also mail notice of the hearing to the property
20 taxpayers of record in a proposed authority district and, for a
21 public hearing to be held after February 15, 1994, to the governing
22 body of each taxing jurisdiction levying taxes that would be
23 subject to capture if the authority is established and a tax
24 increment financing plan is approved. Beginning June 1, 2005, the
25 notice of hearing within the time frame described in this
26 subsection shall be mailed by certified mail to the governing body
27 of each taxing jurisdiction levying taxes that would be subject to

1 capture if the authority is established and a tax increment
2 financing plan is approved. Failure of a property taxpayer to
3 receive the notice shall not invalidate these proceedings. The
4 notice shall state the date, time, and place of the hearing, and
5 shall describe the boundaries of the proposed authority district or
6 districts. At that hearing, a resident, taxpayer, or property owner
7 from a taxing jurisdiction in which the proposed district is
8 located or an official from a taxing jurisdiction with millage that
9 would be subject to capture has the right to be heard in regard to
10 the establishment of the authority and the boundaries of that
11 proposed authority district. The governing body of the municipality
12 in which a proposed district is to be located shall not incorporate
13 land into an authority district not included in the description
14 contained in the notice of public hearing, but it may eliminate
15 lands described in the notice of public hearing from an authority
16 district in the final determination of the boundaries.

17 (3) Except as otherwise provided in subsection (8), not more
18 than 60 days after a public hearing held after February 15, 1994,
19 the governing body of a taxing jurisdiction with millage that would
20 otherwise be subject to capture may exempt its taxes from capture
21 by adopting a resolution to that effect and filing a copy with the
22 clerk of the municipality proposing to create the authority.
23 However, a resolution by a governing body of a taxing jurisdiction
24 to exempt its taxes from capture is not effective for the capture
25 of taxes that are used for a certified technology park **OR A**
26 **CERTIFIED ALTERNATIVE ENERGY PARK**. The resolution takes effect when
27 filed with that clerk and remains effective until a copy of a

1 resolution rescinding that resolution is filed with that clerk.

2 (4) Except as otherwise provided in subsection (8), not less
3 than 60 days after the public hearing **OR A SHORTER PERIOD AS**
4 **DETERMINED BY THE GOVERNING BODY FOR A CERTIFIED TECHNOLOGY PARK OR**
5 **A CERTIFIED ALTERNATIVE ENERGY PARK**, if the governing body creating
6 the authority intends to proceed with the establishment of the
7 authority, it shall adopt, by majority vote of its members elected
8 and serving, a resolution establishing the authority and
9 designating the boundaries of the authority district or districts
10 within which the authority shall exercise its powers. The adoption
11 of the resolution is subject to any applicable statutory or charter
12 provisions with respect to the approval or disapproval of
13 resolutions by the chief executive officer of the municipality and
14 the adoption of a resolution over his or her veto. This resolution
15 shall be filed with the secretary of state promptly after its
16 adoption and shall be published at least once in a newspaper of
17 general circulation in the municipality.

18 (5) The governing body may alter or amend the boundaries of an
19 authority district to include or exclude lands from that authority
20 district or create new authority districts pursuant to the same
21 requirements prescribed for adopting the resolution creating the
22 authority.

23 (6) 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 creating the authority as

1 adopted.

2 (b) Filing of the resolution creating the authority with the
3 secretary of state.

4 (7) Except as otherwise provided by this subsection, if 2 or
5 more municipalities desire to establish an authority under section
6 3(2), each municipality in which the authority district will be
7 located shall comply with the procedures prescribed by this act.
8 The notice required by subsection (2) may be published jointly by
9 the municipalities establishing the authority. The resolutions
10 establishing the authority shall include, or shall approve an
11 agreement including, provisions governing the number of members on
12 the board, the method of appointment, the members to be represented
13 by governmental units or agencies, the terms of initial and
14 subsequent appointments to the board, the manner in which a member
15 of the board may be removed for cause before the expiration of his
16 or her term, the manner in which the authority may be dissolved,
17 and the disposition of assets upon dissolution. An authority
18 described in this subsection shall not be considered established
19 unless all of the following conditions are satisfied:

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

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

26 (c) The governing body of the county in which a majority of
27 the authority district will be located has approved by resolution

1 the creation of the authority.

2 (8) For an authority created under section 3(3), except as
3 otherwise provided by this subsection, the next Michigan
4 development corporation shall comply with the procedures prescribed
5 for a municipality by subsections (1) and (2) and this subsection.
6 The provisions of subsections (3) and (4) shall not apply to an
7 authority exercising its powers under section 3(3). The notice
8 required by subsection (2) may be published by the next Michigan
9 development corporation in a newspaper or newspapers of general
10 circulation within the municipalities which are constituent members
11 of the next Michigan development corporation, and notice shall not
12 be required to be mailed to the property taxpayers of record in the
13 proposed authority district. The governing body of the next
14 Michigan development corporation shall be the governing body of the
15 authority. A taxing jurisdiction levying ad valorem taxes within
16 the authority district that would otherwise be subject to capture
17 which is not a party to the intergovernmental agreement may exempt
18 its taxes from capture by adopting a resolution to that effect and
19 filing a copy not more than 60 days after the public hearing with
20 the recording officer of the next Michigan development corporation.
21 The next Michigan development corporation shall mail notice of the
22 public hearing to the governing body of each taxing jurisdiction
23 which is not a party to the intergovernmental agreement not less
24 than 20 days before the hearing. Following the public hearing, the
25 governing body of the next Michigan development corporation shall
26 adopt a resolution designating the boundaries of the authority
27 district within which the authority shall exercise its powers,

1 which may include any certified technology park within the proposed
2 authority district in accordance with this subsection and may
3 include property adjacent to or within 1,500 feet of a road
4 classified as an arterial or collector according to the federal
5 highway administration manual "Highway Functional Classification -
6 Concepts, Criteria and Procedures" or of another road in the
7 discretion of the next Michigan development corporation, and
8 property adjacent to that property within the territory of the next
9 Michigan development corporation, as provided in the resolution.

10 The resolution shall be effective when adopted, shall be filed with
11 the secretary of state and the president of the Michigan strategic
12 fund promptly after its adoption, and shall be published at least
13 once in a newspaper of general circulation in the territory of the
14 next Michigan development corporation. If an authority district
15 designated under this subsection or subsequently amended includes a
16 certified technology park which is within the authority district of
17 another authority and which is subject to an existing development
18 plan or tax increment financing plan, then that certified
19 technology park may be considered to be under the jurisdiction of
20 the authority established under section 3(3) if so provided in a
21 resolution of the authority established under section 3(3) and if
22 approved by resolution of the governing body of the municipality
23 which created the other authority, and by the president of the
24 Michigan strategic fund. If so provided and approved, then the
25 development plan and tax increment financing plan applicable to the
26 certified technology park, including all assets and obligations
27 under the plans, shall be considered assigned and transferred from

1 the other authority to the authority created under section 3(3),
2 and the initial assessed value of the certified technology park
3 prior to the transfer shall remain the initial assessed value of
4 the certified technology park following the transfer. The transfer
5 shall be effective as of the later of the effective date of the
6 resolution of the authority established under section 3(3), the
7 resolution approved by the governing body of the municipality which
8 created the other authority, and the approval of the president of
9 the Michigan strategic fund.

10 Sec. 11b. (1) If the amount of tax increment revenues lost as
11 a result of the personal property tax exemptions provided by
12 section 1211(4) of the revised school code, 1976 PA 451, MCL
13 380.1211, section 3 of the state education tax act, 1993 PA 331,
14 MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section
15 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will
16 reduce the allowable school tax capture received in a fiscal year,
17 then, notwithstanding any other provision of this act, the
18 authority, with approval of the department of treasury under
19 subsection (3), may request the local tax collecting treasurer to
20 retain and pay to the authority taxes levied under the state
21 education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used
22 for the following:

- 23 (a) To repay an eligible advance.
- 24 (b) To repay an eligible obligation.
- 25 (c) To repay an other protected obligation.
- 26 (d) To pay an advance or an obligation identified in a
27 development plan, or an amendment to that plan for property located

1 in a certified technology park approved by board of the authority
2 not later than 90 days after ~~the effective date of the amendatory~~
3 ~~act that added this section~~ **JULY 19, 2010** if the plan contains all
4 of the following and the plan for the capture of school taxes has
5 been approved within 1 year after ~~the effective date of the~~
6 ~~amendatory act that added this section~~: **JULY 19, 2010:**

7 (i) A detailed description of the project.

8 (ii) A statement of the estimated cost of the project.

9 (iii) The specific location of the project.

10 (iv) The name of any developer of the project.

11 **(E) TO PAY AN ADVANCE OR AN OBLIGATION IDENTIFIED IN A**
12 **DEVELOPMENT PLAN, OR AN AMENDMENT TO THAT PLAN FOR PROPERTY LOCATED**
13 **IN A CERTIFIED ALTERNATIVE ENERGY PARK APPROVED BY THE BOARD OF THE**
14 **AUTHORITY IF THE PLAN CONTAINS ALL OF THE FOLLOWING AND THE PLAN**
15 **FOR THE CAPTURE OF SCHOOL TAXES HAS BEEN APPROVED NOT LATER THAN**
16 **DECEMBER 31, 2012:**

17 (i) **A DETAILED DESCRIPTION OF THE PROJECT.**

18 (ii) **A STATEMENT OF THE ESTIMATED COST OF THE PROJECT.**

19 (iii) **THE SPECIFIC LOCATION OF THE PROJECT.**

20 (iv) **THE NAME OF ANY DEVELOPER OF THE PROJECT.**

21 (2) Not later than June 15, 2008, not later than September 30,
22 2009, and not later than June 1 of each subsequent year, an
23 authority eligible under subsection (1) to have taxes levied under
24 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
25 retained and paid to the authority under this section, shall apply
26 for approval with the department of treasury. The application for
27 approval shall include the following information:

1 (a) The property tax millage rates expected to be levied by
2 local school districts within the jurisdictional area of the
3 authority for school operating purposes for that fiscal year.

4 (b) The tax increment revenues estimated to be received by the
5 authority for that fiscal year based upon actual property tax
6 levies of all taxing jurisdictions within the jurisdictional area
7 of the authority.

8 (c) The tax increment revenues the authority estimates it
9 would have received for that fiscal year if the personal property
10 tax exemptions described in subsection (1) were not in effect.

11 (d) A list of eligible obligations, eligible advances, other
12 protected obligations, and advances and obligations described in
13 subsection (1)(d) for expenditures authorized in a certified
14 technology park **OR DESCRIBED IN SUBSECTION (1)(E) FOR EXPENDITURES**
15 **AUTHORIZED IN A CERTIFIED ALTERNATIVE ENERGY PARK**; the payments due
16 on each of those in that fiscal year; and the total amount of
17 payments due on all of those in that fiscal year.

18 (e) The amount of money, other than tax increment revenues,
19 estimated to be received in that fiscal year by the authority that
20 is primarily pledged to, and to be used for, the payment of an
21 eligible obligation, the repayment of an eligible advance, the
22 payment of another protected obligation, ~~or~~ the payment of
23 obligations or advances described in subsection (1)(d) for
24 expenditures authorized in a certified technology park, **OR THE**
25 **PAYMENT OF OBLIGATIONS OR ADVANCES DESCRIBED IN SUBSECTION (1)(E)**
26 **FOR EXPENDITURES AUTHORIZED IN A CERTIFIED ALTERNATIVE ENERGY PARK.**
27 That amount shall not include excess tax increment revenues of the

1 authority that are permitted by law to be retained by the authority
2 for purposes that further the development program. However, that
3 amount shall include money to be obtained from sources authorized
4 by law, which law is enacted on or after December 1, 1993, for use
5 by the municipality or authority to finance a development plan.

6 (f) The amount of a distribution received pursuant to this act
7 for a fiscal year in excess of or less than the distribution that
8 would have been required if calculated upon actual tax increment
9 revenues received for that fiscal year.

10 (3) Not later than August 15, 2008; for 2009 only, not later
11 than 30 days after the effective date of the amendatory act that
12 amended this sentence; and not later than August 15 of each
13 subsequent year, based on the calculations under subsection (5),
14 the department of treasury shall approve, modify, or deny the
15 application for approval to have taxes levied under the state
16 education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained
17 and paid to the authority under this section. If the application
18 for approval contains the information required under subsection
19 (2)(a) through (f) and appears to be in substantial compliance with
20 the provisions of this section, then the department of treasury
21 shall approve the application. If the application is denied by the
22 department of treasury, then the department of treasury shall
23 provide the opportunity for a representative of the authority to
24 discuss the denial within 21 days after the denial occurs and shall
25 sustain or modify its decision within 30 days after receiving
26 information from the authority. If the application for approval is
27 approved or modified by the department of treasury, the local tax

1 collecting treasurer shall retain and pay to the authority the
2 amount described in subsection (5) as approved by the department.
3 If the department of treasury denies the authority's application
4 for approval, the local tax collecting treasurer shall not retain
5 or pay to the authority the taxes levied under the state education
6 tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the
7 department does not prohibit a subsequent audit of taxes retained
8 in accordance with the procedures currently authorized by law.

9 (4) Each year, the legislature shall appropriate and
10 distribute an amount sufficient to pay each authority the
11 following:

12 (a) If the amount to be retained and paid under subsection (3)
13 is less than the amount calculated under subsection (5), the
14 difference between those amounts.

15 (b) If the application for approval is denied by the
16 department of treasury, an amount verified by the department equal
17 to the amount calculated under subsection (5).

18 (5) Subject to subsection (6), the aggregate amount under this
19 section shall be the sum of the amounts determined under
20 subdivisions (a) and (b) minus the amount determined under
21 subdivision (c), as follows:

22 (a) The amount by which the tax increment revenues the
23 authority would have received and retained for the fiscal year,
24 excluding taxes exempt under section 7ff of the general property
25 tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax
26 exemptions described in subsection (1) were not in effect, exceed
27 the tax increment revenues the authority actually received for the

1 fiscal year.

2 (b) A shortfall required to be reported under subsection
3 (2)(f) that had not previously increased a distribution.

4 (c) An excess amount required to be reported under subsection
5 (2)(f) that had not previously decreased a distribution.

6 (6) A distribution or taxes retained under this section
7 replacing tax increment revenues pledged by an authority or a
8 municipality are subject to any lien of the pledge described in
9 subsection (1), whether or not there has been physical delivery of
10 the distribution.

11 (7) Obligations for which distributions are made under this
12 section are not a debt or liability of this state; do not create or
13 constitute an indebtedness, liability, or obligation of this state;
14 and are not and do not constitute a pledge of the faith and credit
15 of this state.

16 (8) Not later than September 15 of each year, the authority
17 shall provide a copy of the application for approval approved by
18 the department of treasury to the local tax collecting treasurer
19 and provide the amount of the taxes retained and paid to the
20 authority under subsection (5).

21 (9) Calculations of amounts retained and paid and
22 appropriations to be distributed under this section shall be made
23 on the basis of each development area of the authority.

24 (10) The state tax commission may provide that the
25 reimbursement calculations under this section and the calculation
26 of allowable capture of school taxes shall be made for each
27 calendar year's tax increment revenues using a 12-month debt

1 payment period used by the authority and approved by the state tax
2 commission.

3 (11) It is the intent of the legislature that, to the extent
4 that the total amount of taxes levied under the state education tax
5 act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be
6 retained under this section and section 15a of the brownfield
7 redevelopment financing act, 1996 PA 381, MCL 125.2665a, section
8 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b,
9 and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the
10 difference of the total school aid fund revenue for the tax year
11 minus the estimated amount of revenue the school aid fund would
12 have received for the tax year had the tax exemptions described in
13 subsection (1) and the earmark created by section 515 of the
14 Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken
15 effect, the general fund shall reimburse the school aid fund the
16 difference.

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

23 (a) A statement of the reasons that the plan will result in
24 the development of captured assessed value that could not otherwise
25 be expected. The reasons may include, but are not limited to,
26 activities of the municipality, authority, or others undertaken
27 before formulation or adoption of the plan in reasonable

1 anticipation that the objectives of the plan would be achieved by
2 some means.

3 (b) An estimate of the captured assessed value for each year
4 of the plan. The plan may provide for the use of part or all of the
5 captured assessed value or, subject to subsection (3), of the tax
6 increment revenues attributable to the levy of any taxing
7 jurisdiction, but the portion intended to be used shall be clearly
8 stated in the plan. The board or the municipality creating the
9 authority may exclude from captured assessed value a percentage of
10 captured assessed value as specified in the plan or growth in
11 property value resulting solely from inflation. If excluded, the
12 plan shall set forth the method for excluding growth in property
13 value resulting solely from inflation.

14 (c) The estimated tax increment revenues for each year of the
15 plan.

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

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

19 (f) The amount of operating and planning expenditures of the
20 authority and municipality, the amount of advances extended by or
21 indebtedness incurred by the municipality, and the amount of
22 advances by others to be repaid from tax increment revenues.

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

25 (h) The duration of the development plan and the tax increment
26 plan.

27 (i) An estimate of the impact of tax increment financing on

1 the revenues of all taxing jurisdictions in which the eligible
2 property is or is anticipated to be located.

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

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

8 (l) The proposed boundaries of a certified technology park to
9 be created under an agreement proposed to be entered into pursuant
10 to section 12a, **OR OF A CERTIFIED ALTERNATIVE ENERGY PARK TO BE**
11 **CREATED UNDER AN AGREEMENT PROPOSED TO BE ENTERED INTO PURSUANT TO**
12 **SECTION 12C**, or of a next Michigan development area designated
13 under section ~~12e~~, **12E**, an identification of the real property
14 within the certified technology park, **THE CERTIFIED ALTERNATIVE**
15 **ENERGY PARK**, or the next Michigan development area to be included
16 in the tax increment financing plan for purposes of determining tax
17 increment revenues, and whether personal property located in the
18 certified technology park, **THE CERTIFIED ALTERNATIVE ENERGY PARK**,
19 or the next Michigan development area is exempt from determining
20 tax increment revenues.

21 (2) Except as provided in subsection (7), a tax increment
22 financing plan shall provide for the use of tax increment revenues
23 for public facilities for eligible property whose captured assessed
24 value produces the tax increment revenues or, to the extent the
25 eligible property is located within a business development area or
26 a next Michigan development area, for other eligible property
27 located in the business development area or the next Michigan

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

25 (3) The percentage of taxes levied for school operating
26 purposes that is captured and used by the tax increment financing
27 plan and the tax increment financing plans under 1975 PA 197, MCL

1 125.1651 to 125.1681, the tax increment finance authority act, 1980
2 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment
3 financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall not be
4 greater than the percentage capture and use of taxes levied by a
5 municipality or county for operating purposes under the tax
6 increment financing plan and tax increment financing plans under
7 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance
8 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the
9 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
10 to 125.2672. For purposes of the previous sentence, taxes levied by
11 a county for operating purposes include only millage allocated for
12 county or charter county purposes under the property tax limitation
13 act, 1933 PA 62, MCL 211.201 to 211.217a.

14 (4) Except as otherwise provided by this subsection, approval
15 of the tax increment financing plan shall be in accordance with the
16 notice, hearing, disclosure, and approval provisions of sections 16
17 and 17. If the development plan is part of the tax increment
18 financing plan, only 1 hearing and approval procedure is required
19 for the 2 plans together. For a plan submitted by an authority
20 established by 2 or more municipalities under sections 3(2) and
21 4(7) or by an authority established by a next Michigan development
22 corporation under sections 3(3) and 4(8), the notice required by
23 section 16 may be published jointly by the municipalities in which
24 the authority district is located or by the next Michigan
25 development corporation. For a plan submitted by an authority
26 exercising its powers under sections 3(2) and 4(7), the plan shall
27 not be considered approved unless each governing body in which the

1 authority district is located makes the determinations required by
2 section 17 and approves the same plan, including the same
3 modifications, if any, made to the plan by any other governing
4 body. A plan submitted by an authority exercising its powers under
5 sections 3(3) and 4(8) shall be approved if the governing body of
6 the next Michigan development corporation makes the determinations
7 required by section 17.

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

26 (6) Property qualified as a public facility under section
27 ~~2(ee)(ii)~~ **2(FF)(ii)** that is acquired by an authority may be sold,

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

1 technology park, **CERTIFIED ALTERNATIVE ENERGY PARK**, or next
2 Michigan development area in accordance with the tax increment
3 financing plan.

4 (7) The tax increment financing plan may provide for the use
5 of tax increment revenues from a certified technology park for
6 public facilities for any eligible property located in the
7 certified technology park. **THE TAX INCREMENT FINANCING PLAN MAY**
8 **PROVIDE FOR THE USE OF TAX INCREMENT REVENUES FROM A CERTIFIED**
9 **ALTERNATIVE ENERGY PARK FOR PUBLIC FACILITIES FOR ANY ELIGIBLE**
10 **PROPERTY LOCATED IN THE CERTIFIED ALTERNATIVE ENERGY PARK.** The tax
11 increment financing plan may provide for the use of tax increment
12 revenues within or without the development area from which the tax
13 increment revenues are derived, provided that the tax increment
14 revenues shall be used for public facilities within a next Michigan
15 development area within the municipality whose levy has contributed
16 to the tax increment revenues except as otherwise provided in the
17 interlocal agreement creating the next Michigan development
18 corporation that established the authority.

19 (8) If title to property qualified as a public facility under
20 section ~~2(cc)(ii)~~ **2 (FF) (ii)** and acquired by an authority with tax
21 increment revenues is sold, conveyed, or otherwise disposed of
22 pursuant to subsection (6) for less than fair market value, the
23 authority shall enter into an agreement relating to the use of the
24 property with the person to whom the property is sold, conveyed, or
25 disposed of, which agreement shall include a penalty provision
26 addressing repayment to the authority if any interest in the
27 property is sold, conveyed, or otherwise disposed of by the person

1 within 12 years after the person received title to the property
2 from the authority. This subsection shall not require enforcement
3 of a penalty provision for a conveyance incident to a merger,
4 acquisition, reorganization, sale-lease back transaction, employee
5 stock ownership plan, or other change in corporate or business form
6 or structure.

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

13 Sec. 12a. (1) A municipality that has created an authority may
14 apply to the Michigan economic development corporation for
15 designation of all or a portion of the authority district as a
16 certified technology park and to enter into an agreement governing
17 the terms and conditions of the designation. The form of the
18 application shall be in a form specified by the Michigan economic
19 development corporation and shall include information the Michigan
20 economic development corporation determines necessary to make the
21 determinations required under this section.

22 (2) After receipt of an application, the Michigan economic
23 development corporation may designate, pursuant to an agreement
24 entered into under subsection (3), a certified technology park that
25 is determined by the Michigan economic development corporation to
26 satisfy 1 or more of the following criteria based on the
27 application:

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

5 (i) Grants of preferences for access to and commercialization
6 of intellectual property.

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

10 (iii) Donations of services.

11 (iv) Access to telecommunication facilities and other
12 infrastructure.

13 (v) Financial commitments.

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

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

17 (b) A demonstration of a significant commitment on behalf of
18 the institution of higher education or private research-based
19 institute to the commercialization of research produced at the
20 certified technology park, as evidenced by the intellectual
21 property and, if applicable, tenure policies that reward faculty
22 and staff for commercialization and collaboration with private
23 businesses.

24 (c) A demonstration that the proposed certified technology
25 park will be developed to take advantage of the unique
26 characteristics and specialties offered by the public and private
27 resources available in the area in which the proposed certified

1 technology park will be located.

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

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

8 (ii) A business plan exhibiting the economic utilization and
9 availability of resources and a likelihood of successful
10 development of technologies and research into viable business
11 enterprises.

12 (iii) A commitment to the employment of a qualified full-time
13 manager to supervise the development and operation of the business
14 incubator.

15 (e) The existence of a business plan for the proposed
16 certified technology park that identifies its objectives in a
17 clearly focused and measurable fashion and that addresses the
18 following matters:

19 (i) A commitment to new business formation.

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

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

23 (iv) The availability of and method proposed for development of
24 infrastructure and other improvements, including telecommunications
25 technology, necessary for the development of the proposed certified
26 technology park.

27 (v) Assumptions of costs and revenues related to the

1 development of the proposed certified technology park.

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

5 (3) An authority and a municipality that incorporated the
6 authority may enter into an agreement with the Michigan economic
7 development corporation establishing the terms and conditions
8 governing the certified technology park. Upon designation of the
9 certified technology park pursuant to the terms of the agreement,
10 the subsequent failure of any party to comply with the terms of the
11 agreement shall not result in the termination or rescission of the
12 designation of the area as a certified technology park. The
13 agreement shall include, but is not limited to, the following
14 provisions:

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

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

20 (c) The financial commitments of any party to the agreement
21 and of any owner or developer of property within the certified
22 technology park.

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

27 (e) The terms of enforcement of the agreement, which may

1 include the definition of events of default, cure periods, legal
2 and equitable remedies and rights, and penalties and damages,
3 actual or liquidated, upon the occurrence of an event of default.

4 (f) The public facilities to be developed for the certified
5 technology park.

6 (g) The costs approved for public facilities under section
7 2(dd).

8 (4) If the Michigan economic development corporation has
9 determined that a sale price or rental value at below market rate
10 will assist in increasing employment or private investment in the
11 certified technology park, the authority and municipality have
12 authority to determine the sale price or rental value for public
13 facilities owned or developed by the authority and municipality in
14 the certified technology park at below market rate.

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

22 (6) Except as otherwise provided in this section, an agreement
23 designating a certified technology park may not be made after
24 December 31, 2002, but any agreement made on or before December 31,
25 2002 may be amended after that date. However, the Michigan economic
26 development corporation may enter into an agreement with a
27 municipality after December 31, 2002 and on or before December 31,

1 2005 if that municipality has adopted a resolution of interest to
2 create a certified technology park before December 31, 2002.

3 (7) The Michigan economic development corporation shall market
4 the certified technology parks and the certified business parks.
5 The Michigan economic development corporation and an authority may
6 contract with each other or any third party for these marketing
7 services.

8 (8) Except as otherwise provided in subsections (9), ~~and~~ (10),
9 **AND (11)**, the Michigan economic development corporation shall not
10 designate more than 10 certified technology parks. For purposes of
11 this subsection only, 2 certified technology parks located in a
12 county that contains a city with a population of more than 750,000,
13 shall be counted as 1 certified technology park. Not more than 7 of
14 the certified technology parks designated under this section may
15 not include a firm commitment from at least 1 business engaged in a
16 high technology activity creating a significant number of jobs.

17 (9) The Michigan economic development corporation may
18 designate an additional 5 certified technology parks after November
19 1, 2002 and before December 31, 2007. The Michigan economic
20 development corporation shall not accept applications for the
21 additional certified technology parks under this subsection until
22 after November 1, 2002.

23 (10) The Michigan economic development corporation may
24 designate an additional 3 certified technology parks after February
25 1, 2008 and before December 31, 2008. The Michigan economic
26 development corporation shall not accept applications for the
27 additional certified technology parks under this subsection until

1 after February 1, 2008.

2 (11) THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION MAY
3 DESIGNATE AN ADDITIONAL 2 CERTIFIED TECHNOLOGY PARKS AFTER DECEMBER
4 1, 2011 AND BEFORE SEPTEMBER 1, 2012. THE MICHIGAN ECONOMIC
5 DEVELOPMENT CORPORATION SHALL NOT ACCEPT APPLICATIONS FOR THE
6 ADDITIONAL CERTIFIED TECHNOLOGY PARKS UNDER THIS SUBSECTION UNTIL
7 AFTER DECEMBER 1, 2011.

8 (12) ~~(11)~~—The Michigan economic development corporation shall
9 give priority to applications that include new business activity.

10 (13) ~~(12)~~—For an authority established by 2 or more
11 municipalities under sections 3(2) and 4(7), each municipality in
12 which the authority district is located by a majority vote of the
13 members of its governing body may make a limited tax pledge to
14 support the authority's tax increment bonds issued under section 14
15 or, if authorized by the voters of the municipality, may pledge its
16 full faith and credit for the payment of the principal of and
17 interest on the bonds. The municipalities that have made a pledge
18 to support the authority's tax increment bonds may approve by
19 resolution an agreement among themselves establishing obligations
20 each may have to the other party or parties to the agreement for
21 reimbursement of all or any portion of a payment made by a
22 municipality related to its pledge to support the authority's tax
23 increment bonds.

24 (14) ~~(13)~~—Not including certified technology parks designated
25 under subsection (8), but for certified technology parks designated
26 under subsections (9), ~~and~~ (10), **AND (11)** only, this state shall do
27 all of the following:

1 (a) Reimburse intermediate school districts each year for all
2 tax revenue lost that was captured by an authority for a certified
3 technology park designated by the Michigan economic development
4 corporation after October 3, 2002.

5 (b) Reimburse local school districts each year for all tax
6 revenue lost that was captured by an authority for a certified
7 technology park designated by the Michigan economic development
8 corporation after October 3, 2002.

9 (c) Reimburse the school aid fund from funds other than those
10 appropriated in section 11 of the state school aid act of 1979,
11 1979 PA 94, MCL 388.1611, for an amount equal to the reimbursement
12 calculations under subdivisions (a) and (b) and for all revenue
13 lost that was captured by an authority for a certified technology
14 park designated by the Michigan economic development corporation
15 after October 3, 2002. Foundation allowances calculated under
16 section 20 of the state school aid act of 1979, 1979 PA 94, MCL
17 388.1620, shall not be reduced as a result of tax revenue lost that
18 was captured by an authority for a certified technology park
19 designated by the Michigan economic development corporation under
20 subsection (9), ~~or~~(10), **OR (11)** after October 3, 2002.

21 Sec. 12c. (1) A municipality that has created an authority may
22 apply to the Michigan economic development corporation for
23 designation of all or a portion of the authority district as a
24 certified alternative energy park and to enter into an agreement
25 governing the terms and conditions of the designation. The form of
26 the application shall be in a form specified by the Michigan
27 economic development corporation and shall include information the

1 Michigan economic development corporation determines necessary to
2 make the determinations required under this section.

3 (2) After receipt of an application, the Michigan economic
4 development corporation may designate, pursuant to an agreement
5 entered into under subsection (3), a certified alternative energy
6 park that is determined by the Michigan economic development
7 corporation to satisfy 1 or more of the following criteria based on
8 the application:

9 (a) A demonstration that the proposed alternative energy park
10 will be developed to take advantage of the unique characteristics
11 and specialties offered by public and private resources available
12 in the area in which the proposed certified alternative energy park
13 will be located.

14 (b) The existence of or strong likelihood of attracting
15 alternative energy technology businesses to the proposed
16 alternative energy park by exhibiting the following types of
17 resources and organization:

18 (i) Significant financial and other types of support from the
19 public or private resources in the area.

20 (ii) Proposed or actual ownership of land in sufficient
21 quantity as to attract 1 or more major alternative energy
22 technology businesses.

23 (c) The existence of a business plan for the proposed
24 certified alternative energy park that identifies its objectives in
25 a clearly focused and measurable fashion and that addresses the
26 following matters:

27 (i) A commitment to new business formation or major business

1 attraction.

2 (ii) The clustering of businesses, technology, and research
3 within the region.

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

6 (iv) The availability of and method proposed for development
7 and sale or conveyance of shovel-ready sites to include
8 infrastructure and other improvements, including telecommunications
9 technology, necessary for the successful development of the
10 proposed certified alternative energy park.

11 (v) Assumptions of costs and revenues related to the
12 development of the proposed certified alternative energy park.

13 (f) A demonstrable and satisfactory assurance that the
14 proposed certified alternative energy park can be developed to
15 principally contain eligible property as defined by section 2(s)(v)
16 and (vi).

17 (3) An authority and a municipality that incorporated the
18 authority may enter into an agreement with the Michigan economic
19 development corporation establishing the terms and conditions
20 governing the certified alternative energy park. Upon designation
21 of the certified alternative energy park pursuant to the terms of
22 the agreement, the subsequent failure of any party to comply with
23 the terms of the agreement shall not result in the termination or
24 rescission of the designation of the area as a certified
25 alternative energy park. The agreement shall include, but is not
26 limited to, the following provisions:

27 (a) A description of the area to be included within the

1 certified alternative energy park.

2 (b) Covenants and restrictions, if any, upon all or a portion
3 of the properties contained within the certified alternative energy
4 park and terms of enforcement of any covenants or restrictions.

5 (c) The financial commitments of any party to the agreement
6 and of any owner or developer of property, including sale or
7 transfer of ownership or options thereto upon designation of a
8 certified alternative energy park for property within the certified
9 alternative energy park.

10 (d) The terms of enforcement of the agreement, which may
11 include the definition of events of default, cure periods, legal
12 and equitable remedies and rights, and penalties and damages,
13 actual or liquidated, upon the occurrence of an event of default.

14 (e) Proposed method of ownership of the land within the
15 certified alternative energy park.

16 (f) The costs approved for public facilities under section
17 2(dd).

18 (g) Proposed method of operating the certified alternative
19 energy park.

20 (4) If the Michigan economic development corporation has
21 determined that a sale price or rental value at below market rate
22 will assist in increasing employment or private investment in the
23 certified alternative energy park, the authority and municipality
24 have authority to determine the sale price or rental value for
25 public facilities owned or developed by the authority and
26 municipality in the certified alternative energy park at below
27 market rate.

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

8 (6) Except as otherwise provided in this section, an agreement
9 designating a certified alternative energy park may not be made
10 after December 31, ~~2011~~, **2012**, but any agreement made on or before
11 December 31, ~~2011~~ **2012** may be amended after that date.

12 (7) The Michigan economic development corporation shall not
13 designate more than 10 certified alternative energy parks. For
14 purposes of this subsection only, certified alternative energy
15 parks located in the same county shall be counted as 1 certified
16 alternative energy park.

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

1 all or any portion of a payment made by a municipality related to
2 its pledge to support the authority's tax increment bonds.

3 (9) Upon approval of the Michigan economic development
4 corporation, the certified alternative energy park may be owned and
5 operated by an economic development corporation created under the
6 economic development corporations act, 1974 PA 338, MCL 125.1601 to
7 125.1636, or other public body agreeable to all members.

8 ~~Sec. 12e.~~ **12E.** (1) A next Michigan development corporation
9 establishing an authority under section 3(3) shall notify the
10 Michigan economic development corporation of the designation of a
11 next Michigan development area.

12 (2) The Michigan economic development corporation shall market
13 the authority district including next Michigan development areas.

14 (3) For an authority exercising its powers under section 3(3),
15 each municipality and county which is a party to the interlocal
16 agreement establishing the next Michigan development corporation,
17 or any 1 of them, by a majority vote of the members of its
18 governing body, may make a limited tax pledge to support the
19 authority's tax increment bonds issued under section 14 or, if
20 authorized by the voters of the municipality or county, may pledge
21 its full faith and credit for the payment of the principal of and
22 interest on the bonds. The municipalities or counties that have
23 made a pledge to support the authority's tax increment bonds may
24 approve by resolution an agreement among themselves establishing
25 obligations each may have to the other party or parties to the
26 agreement for reimbursement of all or any portion of a payment made
27 by a municipality or county related to its pledge to support the

1 authority's tax increment bonds.