

SENATE BILL NO. 700

February 01, 2024, Introduced by Senator HERTEL and referred to the Committee on Local Government.

A bill to amend 2018 PA 57, entitled
"Recodified tax increment financing act,"
by amending section 201 (MCL 125.4201).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 201. As used in this part:
- 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,~~ **includes**, but is not limited to,

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

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

5 (i) For valuations made before January 1, 1995, the state
6 equalized valuation as determined under the general property tax
7 act, 1893 PA 206, MCL 211.1 to 211.155.

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

11 (c) "Authority" means a downtown development authority created
12 ~~pursuant to~~ **under** this part.

13 (d) "Board" means the governing body of an authority.

14 (e) "Business district" means an area in the downtown of a
15 municipality zoned and used principally for business.

16 (f) "Captured assessed value" means the amount in any 1 year
17 by which the current assessed value of the project area, including
18 the assessed value of property for which specific local taxes are
19 paid in lieu of property taxes as determined in subdivision (aa),
20 exceeds the initial assessed value. The state tax commission shall
21 prescribe the method for calculating captured assessed value.

22 (g) "Catalyst development project" means a project that is
23 located in a municipality with a population greater than 600,000,
24 is designated by the authority as a catalyst development project,
25 and is expected to result in ~~at least~~ **not less than** \$300,000,000.00
26 of capital investment. There ~~shall~~ **must not** be ~~no~~ more than 1
27 catalyst development project designated within each authority.

28 (h) "Chief executive officer" means the mayor or city manager
29 of a city, the president or village manager of a village, or the

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

4 (i) "Development area" means that area to which a development
5 plan is applicable.

6 (j) "Development plan" means that information and those
7 requirements for a development plan set forth in section 217.

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

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

13 **Both of the following apply regarding a downtown district:**

14 (i) A downtown district may include 1 or more separate and
15 distinct geographic areas in a business district as determined by
16 the municipality if **1 of the following requirements is met:**

17 (A) **The** municipality enters into an agreement with a qualified
18 township under section 203(7). ~~or if the~~

19 (B) **The** municipality is a city that surrounds another city and
20 that other city lies between the 2 separate and distinct geographic
21 areas.

22 (C) **The municipality is located on both the mainland and 1 or**
23 **more islands, and a body of water lies between the 2 separate and**
24 **distinct geographic areas.**

25 (ii) If the downtown district contains more than 1 separate and
26 distinct geographic area in the downtown district, the separate and
27 distinct geographic areas ~~shall be~~**are** considered 1 downtown
28 district.

29 (m) "Eligible advance" means an advance made before August 19,

1 1993.

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

9 (o) "Fire alarm system" means a system designed to detect and
10 annunciate the presence of fire, or by-products of fire. Fire alarm
11 system includes smoke detectors.

12 (p) "Fiscal year" means the fiscal year of the authority.

13 (q) "Governing body of a municipality" means the elected body
14 of a municipality having legislative powers.

15 (r) "Initial assessed value" means the assessed value, as
16 equalized, of all the taxable property within the boundaries of the
17 development area ~~at the time when~~ the ordinance establishing the
18 tax increment financing plan is approved, as shown by the most
19 recent assessment roll of the municipality for which equalization
20 has been completed ~~at the time when~~ the resolution is adopted.
21 Property exempt from taxation ~~at the time of the determination of~~
22 **when** the initial assessed value ~~shall is determined must~~ be
23 included as zero. For the purpose of determining initial assessed
24 value, property for which a specific local tax is paid in lieu of a
25 property tax ~~shall is~~ not ~~be~~ considered to be property that is
26 exempt from taxation. The initial assessed value of property for
27 which a specific local tax was paid in lieu of a property tax ~~shall~~
28 **must** be determined as provided in subdivision (aa). ~~In the case of~~
29 **If** a municipality having a population of less than 35,000 ~~that~~

1 established an authority ~~prior to~~ **before** 1985, created a district
 2 or districts, and approved a development plan or tax increment
 3 financing plan or ~~amendments~~ **amendment** to a plan, ~~and which plan~~
 4 ~~or tax increment financing plan or amendments to a plan, and which~~
 5 ~~plan~~ **that** expired by its terms December 31, 1991, the initial
 6 assessed value for the purpose of any plan or plan amendment
 7 adopted as an extension of the expired plan ~~shall~~ **must** be
 8 determined as if the plan had not expired December 31, 1991. For a
 9 development area designated before 1997 in which a renaissance zone
 10 has subsequently been designated ~~pursuant to~~ **under** the Michigan
 11 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the
 12 initial assessed value of the development area otherwise determined
 13 under this subdivision ~~shall~~ **must** be reduced by the amount by which
 14 the current assessed value of the development area was reduced in
 15 1997 due to the exemption of property under section 7ff of the
 16 general property tax act, 1893 PA 206, MCL 211.7ff, but ~~in no case~~
 17 ~~shall~~ the initial assessed value **must not** be less than zero.

18 (s) "Municipality" means a city, village, or township.

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

28 (i) A requirement to pay proceeds derived from ad valorem
 29 property taxes or taxes levied in lieu of ad valorem property

1 taxes.

2 (ii) A management contract or a contract for professional
3 services.

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

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

10 (v) A letter of credit, paying agent, transfer agent, bond
11 registrar, or trustee fee associated with a contract, agreement,
12 bond, or note.

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

24 (i) A reimbursement agreement between the municipality and an
25 authority it established.

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

28 (iii) A resolution of the authority agreeing to make payments to
29 the incorporating unit.

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

3 (v) "Operations" means office maintenance, including salaries
4 and expenses of employees, office supplies, consultation fees,
5 design costs, and other expenses incurred in the daily management
6 of the authority and planning of its activities.

7 (w) "Other protected obligation" means **any of the following:**

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

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

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

1 development agreement.

2 (iv) An obligation incurred by the authority evidenced by or to
3 finance a contract to purchase real property within a development
4 area or a contract to develop that property within the development
5 area, or both, if all of the following requirements are met:

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

7 (B) Before June 30, 1995, the authority enters a contract for
8 the development of the real property located within the development
9 area.

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

12 (I) The department of natural resources for site reclamation
13 of the real property.

14 (II) The department of consumer and industry services for
15 development of the real property.

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

22 (vi) A loan from a municipality to an authority if the loan was
23 approved by the legislative body of the municipality on April 18,
24 1994.

25 (vii) Funds expended to match a grant received by a
26 municipality on behalf of an authority for sidewalk improvements
27 from the Michigan department of transportation if the legislative
28 body of the municipality approved the grant application on April 5,
29 1993 and the grant was received by the municipality in June 1993.

1 (viii) For taxes captured in 1994, an obligation described in
2 this subparagraph issued or incurred to finance a project. An
3 obligation is considered issued or incurred to finance a project
4 described in this subparagraph only if all of the following are
5 met:

6 (A) The obligation requires raising capital for the project or
7 paying for the project, whether or not a borrowing is involved.

8 (B) The obligation was part of a development plan and the tax
9 increment financing plan was approved by a municipality on May 6,
10 1991.

11 (C) The obligation is in the form of a written memorandum of
12 understanding between a municipality and a public utility dated
13 October 27, 1994.

14 (D) The authority or municipality captured school taxes during
15 1994.

16 (ix) An obligation incurred after July 31, 2012 by an
17 authority, municipality, or other governmental unit to pay for
18 costs associated with a catalyst development project.

19 (x) "Public facility" means a street, plaza, pedestrian mall,
20 and any improvements to a street, plaza, or pedestrian mall
21 including street furniture and beautification, park, parking
22 facility, recreational facility, right-of-way, structure, waterway,
23 bridge, lake, pond, canal, utility line or pipe, building, and
24 access routes to any of ~~the foregoing,~~ **these places**, designed and
25 dedicated to use by the public generally, or used by a public
26 agency. Public facility includes an improvement to a facility used
27 by the public or a public facility as those terms are defined in
28 section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to
29 comply with the barrier free design requirements of the state

1 construction code promulgated under the Stille-DeRossett-Hale
 2 single state construction code act, 1972 PA 230, MCL 125.1501 to
 3 125.1531. Public facility also includes the acquisition,
 4 construction, improvement, and operation of a building owned or
 5 leased by the authority to be used as a retail business incubator.

6 (y) "Qualified refunding obligation" means an obligation
 7 issued or incurred by an authority or by a municipality on behalf
 8 of an authority to refund an obligation if 1 or more of the
 9 following apply:

10 (i) The obligation is issued to refund a qualified refunding
 11 obligation issued in November 1997 and any subsequent refundings of
 12 that obligation issued before January 1, 2010 or the obligation is
 13 issued to refund a qualified refunding obligation issued on May 15,
 14 1997 and any subsequent refundings of that obligation issued before
 15 January 1, 2010 in an authority in which 1 parcel or group of
 16 parcels under common ownership represents 50% or more of the
 17 taxable value captured within the tax increment finance district
 18 and that will ultimately provide for ~~at least~~ **not less than** a 40%
 19 reduction in the taxable value of the property as part of a
 20 negotiated settlement as a result of an appeal filed with the state
 21 tax tribunal. Qualified refunding obligations issued under this
 22 subparagraph are not subject to the requirements of section 611 of
 23 the revised municipal finance act, 2001 PA 34, MCL 141.2611, if
 24 issued before January 1, 2010. The duration of the development
 25 program described in the tax increment financing plan relating to
 26 the qualified refunding obligations issued under this subparagraph
 27 is ~~hereby~~ extended to 1 year after the final date of maturity of
 28 the qualified refunding obligations.

29 (ii) The refunding obligation meets both of the following:

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

6 (B) The net present value of the sum of the tax increment
7 revenues described in subdivision (cc) (ii) and the distributions
8 under section 213b to repay the refunding obligation will not be
9 greater than the net present value of the sum of the tax increment
10 revenues described in subdivision (cc) (ii) and the distributions
11 under section 213b to repay the obligation being refunded, as
12 calculated using a method approved by the department of treasury.

13 (iii) The obligation is issued to refund an other protected
14 obligation issued as a capital appreciation bond delivered to the
15 Michigan municipal bond authority on December 21, 1994 and any
16 subsequent refundings of that obligation issued before January 1,
17 2012. Qualified refunding obligations issued under this
18 subparagraph are not subject to the requirements of section 305(2),
19 (3), (5), and (6), ~~section 501~~, ~~section 503~~, or ~~section 611~~ of the
20 revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501,
21 141.2503, and 141.2611, if issued before January 1, 2012. The
22 duration of the development program described in the tax increment
23 financing plan relating to the qualified refunding obligations
24 issued under this subparagraph is extended to 1 year after the
25 final date of maturity of the qualified refunding obligations. The
26 obligation may be payable through the year 2025 at an interest rate
27 not exceeding the maximum rate permitted by law, notwithstanding
28 the bond maturity dates contained in the notice of intent to issue
29 bonds published by the municipality. An obligation issued under

1 this subparagraph is a qualified refunding obligation only to the
 2 extent that revenues described in subdivision (cc) (ii) and
 3 distributions under section 213b to repay the qualified refunding
 4 obligation do not exceed \$750,000.00.

5 (iv) The obligation is issued to refund a qualified refunding
 6 obligation issued on February 13, 2008, and any subsequent
 7 refundings of that obligation, issued before December 31, 2018.
 8 Qualified refunding obligations issued under this subparagraph are
 9 not subject to the requirements of section 305(2), (3), (5), and
 10 (6), 501, 503, or 611 of the revised municipal finance act, 2001 PA
 11 34, MCL 141.2305, 141.2501, 141.2503, and 141.2611. The duration of
 12 the development program described in the tax increment financing
 13 plan relating to the qualified refunding obligations issued under
 14 this subparagraph is extended to 1 year after the final date of
 15 maturity of the qualified refunding obligations. Revenues described
 16 in subdivision (cc) (ii) and distributions made under section 213b in
 17 excess of the amount needed for current year debt service on an
 18 obligation issued under this subparagraph may be paid to the
 19 authority to the extent necessary to pay future years' debt service
 20 on the obligation as determined by the board.

21 (z) "Qualified township" means a township that meets all of
 22 the following requirements:

23 (i) Was not eligible to create an authority ~~prior to~~ **before**
 24 January 3, 2005.

25 (ii) Adjoins a municipality that previously created an
 26 authority.

27 (iii) Along with the adjoining municipality that previously
 28 created an authority, is a member of the same joint planning
 29 commission under the joint municipal planning act, 2003 PA 226, MCL

1 125.131 to 125.143.

2 (aa) "Specific local tax" means a tax levied under 1974 PA
 3 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978
 4 PA 255, MCL 207.651 to 207.668, the technology park development
 5 act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL
 6 211.181 to 211.182. The initial assessed value or current assessed
 7 value of property subject to a specific local tax ~~shall be~~ **is** the
 8 quotient of the specific local tax paid divided by the ad valorem
 9 millage rate. However, after 1993, the state tax commission shall
 10 prescribe the method for calculating the initial assessed value and
 11 current assessed value of property for which a specific local tax
 12 was paid in lieu of a property tax.

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

15 (cc) "Tax increment revenues" means the amount of ad valorem
 16 property taxes and specific local taxes attributable to the
 17 application of the levy of all taxing jurisdictions ~~upon~~ **on** the
 18 captured assessed value of real and personal property in the
 19 development area, subject to the following requirements:

20 (i) Tax increment revenues include ad valorem property taxes
 21 and specific local taxes attributable to the application of the
 22 levy of all taxing jurisdictions other than ~~the~~ **this** state pursuant
 23 ~~to~~ **under** the state education tax act, 1993 PA 331, MCL 211.901 to
 24 211.906, and local or intermediate school districts ~~upon~~ **on** the
 25 captured assessed value of real and personal property in the
 26 development area for any purpose authorized by this part.

27 (ii) Tax increment revenues include ad valorem property taxes
 28 and specific local taxes attributable to the application of the
 29 levy of ~~the~~ **this** state pursuant ~~to~~ **under** the state education tax

1 act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate
 2 school districts ~~upon~~**on** the captured assessed value of real and
 3 personal property in the development area in an amount equal to the
 4 amount necessary, without regard to subparagraph (i), to repay
 5 eligible advances, eligible obligations, and other protected
 6 obligations.

7 (iii) Tax increment revenues do not include any of the
 8 following:

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

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

20 (C) Ad valorem property taxes exempted from capture under
 21 section 203(3) or specific local taxes attributable to ~~such~~**those**
 22 ad valorem property taxes.

23 (D) Ad valorem property taxes levied under 1 or more of the
 24 following or specific local taxes attributable to those ad valorem
 25 property taxes:

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

28 (II) The art institute authorities act, 2010 PA 296, MCL
 29 123.1201 to 123.1229.

1 (III) Except as otherwise provided in section 203(3), ad
 2 valorem property taxes or specific local taxes attributable to
 3 those ad valorem property taxes levied for a separate millage for
 4 public library purposes approved by the electors after December 31,
 5 2016.

6 (iv) The amount of tax increment revenues authorized to be
 7 included under subparagraph (ii) or (v), and required to be
 8 transmitted to the authority under section 214(1), from ad valorem
 9 property taxes and specific local taxes attributable to the
 10 application of the levy of the state education tax act, 1993 PA
 11 331, MCL 211.901 to 211.906, a local school district or an
 12 intermediate school district ~~upon~~**on** the captured assessed value of
 13 real and personal property in a development area ~~shall~~**must** be
 14 determined separately for the levy by ~~the~~**this** state, each school
 15 district, and each intermediate school district as the product of
 16 sub-subparagraphs (A) and (B):

17 (A) The percentage that the total ad valorem taxes and
 18 specific local taxes available for distribution by law to ~~the~~**this**
 19 state, **a** local school district, or **an** intermediate school district,
 20 respectively, bears to the aggregate amount of ad valorem millage
 21 taxes and specific taxes available for distribution by law to ~~the~~
 22 **this** state, each local school district, and each intermediate
 23 school district.

24 (B) The maximum amount of ad valorem property taxes and
 25 specific local taxes considered tax increment revenues under
 26 subparagraph (ii) or (v).

27 (v) Tax increment revenues include ad valorem property taxes
 28 and specific local taxes, in an annual amount and for each year
 29 approved by the state treasurer, attributable to the levy by this

1 state under the state education tax act, 1993 PA 331, MCL 211.901
2 to 211.906, and by local or intermediate school districts, ~~upon-on~~
3 the captured assessed value of real and personal property in the
4 development area of an authority established in a city with a
5 population of 600,000 or more to pay for, or reimburse an advance
6 for, not more than \$8,000,000.00 for the demolition of buildings or
7 structures on public or privately owned property within a
8 development area that commences in 2005, or to pay the annual
9 principal of or interest on an obligation, the terms of which are
10 approved by the state treasurer, issued by an authority, or by a
11 city on behalf of an authority, to pay not more than \$8,000,000.00
12 of the costs to demolish buildings or structures on public or
13 privately owned property within a development area that commences
14 in 2005.

15 (vi) Tax increment revenues include ad valorem property taxes
16 and specific local taxes attributable to the levy by this state
17 under the state education tax act, 1993 PA 331, MCL ~~211.201-211.901~~
18 to 211.906, and by local or intermediate school districts ~~which~~
19 **that** were levied on or after July 1, 2010, ~~upon-on~~ the captured
20 assessed value of real and personal property in the development
21 area of an authority established in a city with a population of
22 600,000 or more to pay for, or reimburse an advance for, costs
23 associated with the land acquisition, preliminary site work, and
24 construction of a catalyst development project.