

**CHARTER TOWNSHIP OF VAN BUREN
LOCAL DEVELOPMENT FINANCE AUTHORITY
AGENDA**

Regular Meeting: Wednesday, November 15, 2017 – 2:00 p.m., Denton Room

CALL TO ORDER

ROLL CALL

Chairman Dotson _____
Vacant _____
Leonard Armstrong _____
Chuck Covington _____
Vacant _____
Supervisor McNamara _____

Doug Peters _____
John Delaney _____
James Williams _____
Shareen Barker _____
Danylo Dobriansky _____

Recording Secretary Grishaber _____

APPROVAL OF AGENDA:

APPROVAL OF MINUTES:

1. Regular Meeting: September 12, 2017

CORRESPONDENCE:

PUBLIC COMMENT:

UNFINISHED BUSINESS:

1. Marketing/Community Outreach Update

NEW BUSINESS:

1. 2018 Proposed Budget
2. LDFA Orientation Packet

NON-AGENDA ITEMS:

ADJOURNMENT:

CLOSED SESSION:

ADJOURNMENT:

If you are unable to attend this meeting, please notify Secretary Grishaber at 734.699.8913

**CHARTER TOWNSHIP OF VAN BUREN
LOCAL DEVELOPMENT FINANCE AUTHORITY
DRAFT MEETING MINUTES
SEPTEMBER 12, 2017, 2:00 p.m. Denton Room**

CALL TO ORDER: Chairman Dotson called the meeting to order at 2:15pm.

ROLL CALL:

Present: Dotson, Armstrong, Delaney, Barker, Peters, Dobriansky

Absent/Excused: Covington, Williams, McNamara

Staff: Director Akers, Secretary Tina Grishaber

Audience Members: 2

Move New Business before unfinished business being first on the agenda

Motion Delaney, Peters seconded. Motion Carried.

APPROVAL OF AGENDA:

Motion Peters, Delaney seconded to move new business ahead of unfinished business on the agenda.

Motion Carried

APPROVAL OF MINUTES

Regular meeting: Moved by Barker, Peters supported to approve the Minutes of the July, 2017 regular meeting.

Motion carried.

CORRESPONDENCE: None

PUBLIC COMMENT: None

NEW BUSINESS:

2018 Proposed Budget

Director Akers presented the proposed 2018 LDFA Budget. He indicated that it is required to be approved by the Board of Trustee prior to the approval by the LDFA board of directors. The proposed budget will be before the Township Board at their second October meeting.

2016 Audit

Deputy Treasurer Bellingham gave a presentation to the committee members about the yearly audit for 2016. Several questions were raised regarding the Township's investment policy and the LDFA's potential liabilities. Deputy Treasurer Bellingham indicated he would provide the requested information to the board of directors.

Motion Barker, Armstrong supported to accept and file the 2016 Audit. Motion Carried.

UNFINISHED BUSINESS:

Marketing/Community Outreach Update

Director Akers provided an update regarding several items which will or have heightened the LDFA district. These items included the following:

- A. Grace Lake's newly proposed monument sign.
- B. The Wayne County Ways and Means meeting which was held at the Grace Lake Corporate Center.
- C. The Township's economic development video which highlighted Grace Lake and some of the businesses in the Grace Lake Corporate Center.

NON-AGENDA ITEMS:

ADJOURNMENT:

Moved by Delaney, Barker supported to adjourn the meeting at 3:02pm.

Respectfully Submitted,
Tina Grishaber

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Memo

TO: Local Development Finance Authority

**FROM: Ron Akers, AICP
Director of Planning and Economic Development**

RE: Proposed 2018 LDFA Budget

DATE: November 6, 2017

The Local Development Financing Act has specific guidelines with the preparation and submittal of the budget for the operation of the authority. It states as follows:

125.2169 Preparation and submission of budget; manner; approval; cost of handling and auditing funds.

Sec. 19. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body.

(2) The governing body may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

Based on this provision a budget has been prepared and has been submitted to the Township Board for approval. The statute requires that the budget be approved by the “governing body” (Township Board) before it is adopted by the LDFA board of directors and the Township Board approved the budget at the October 17, 2017 regular meeting. This budget is identical to the document that was before the board of directors at their July 2017 regular meeting.

At this time staff recommends approval of the proposed 2018 LDFA budget. I look forward to any further discussion the LDFA may have regarding this item.

Charter Township of Van Buren
LDFA Fund

		2015	2016	2017	2017	2018
		Actual	Actual	Budget	Amended	Proposed
Revenue:						
251-000-403-000	Property Tax Capture	520,812	526,111	502,043	514,045	650,405
251-000-573-000	Local Comm Stabilization Approp.	15,731	75,561	99,659	62,131	96,178
251-000-664-000	Interest Income	29,269	633	500	500	4,634
251-000-698-000	Bond Sales Proceeds	12,190,000	-	-	-	-
251-000-699-000	Bond Premium	820,737	-	-	-	-
251-000-	Transfer In for debt service	-	-	-	-	-
	Total Revenue	13,576,549	602,305	602,202	576,676	751,217
Expenditures:						
251-000-702-000	Director Salary	2,000	2,000	2,000	2,000	2,000
251-000-703-000	Secretary	2,000	2,000	2,000	2,000	2,000
251-000-705-000	Employee Wages - Administrative	3,000	3,000	3,000	3,000	3,000
251-000-719-000	Allocated Fringes	1,000	1,000	1,000	1,000	1,000
251-000-727-000	Office Supplies	-	-	-	-	-
251-000-728-000	Postage	-	-	-	-	-
251-000-801-000	Auditing/Accounting	6,465	3,925	5,000	5,000	5,000
251-000-802-000	Attorney Fees	80,191	108,061	100,000	100,000	100,000
251-000-803-000	Consultant	750	6,075	1,000	1,000	1,000
251-000-956-000	Other	2,044	239	2,000	2,000	2,000
251-000-972-000	Ecorse/Hannan Rd. Improve	-	-	-	-	-
251-000-992-000	Bond Issuance Costs	174,056	-	-	-	-
251-000-994-000	Bond Principal	575,000	-	-	-	-
251-000-994-001	Deposit with Bond Escrow Agent	17,352,681	-	-	-	-
251-000-995-000	Interest Expense	420,701	552,925	521,081	521,081	521,081
251-000-996-000	Handling Fees	300	500	300	301	500
	Total Expenditures	18,620,189	679,725	637,381	637,382	637,581
	Net Income (Expense)	(5,043,640)	(77,420)	(35,179)	(60,706)	113,636
Beginning Fund Balance						
		5,789,022	745,383	653,030	667,962	607,256
Excess of revenues over expenses						
		(5,043,640)	(77,420)	(35,179)	(60,706)	113,636
Fund Balance (Deficit)						
		745,383	667,962	617,851	607,256	720,892



Memo

TO: Local Development Finance Authority

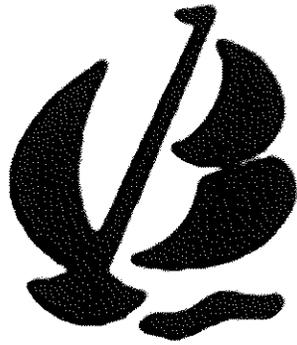
FROM: Ron Akers, AICP
Director of Planning and Economic Development

RE: Informational Packets

DATE: November 6, 2017

Attached this is informational packets which have been prepared by our Planning intern Chris Madigan. A brief overview will be given at the regular meeting.

LDFA
Member
Information Packet



Van Buren
Township

Welcome New Board Member!

In this packet, you will find:

- LDFA Member Contact Information
- Meeting Packet Pickup Information
- LDFA Meeting Schedule
- LDFA Bylaws
- Current LDFA Budget
- Van Buren Township TIF Plan
- Michigan Economic Development Corporation
- Economic Development Tools (Michigan Municipal League)
- Michigan State Senate TIF Information
- Robert's Rules of Order Cheat Sheet
- Parliamentary Procedure (American Planning Association)
- LDFA Act
- Open Meetings Act Handbook (Michigan Attorney General)

Keep in touch:

- Agendas, Packets, and Minutes: <http://vanburen-mi.org/meetings-agendas-and-minutes/>
- Township Calendar: <http://vanburen-mi.org/calendar-2/>
- To contact the planning department please call at 734-699-8913 or:
 - Ron: rakers@vanburen-mi.org Cell: 734-796-6131
 - Matt: mbest@vanburen-mi.org

Meeting Packet Pickup Information

- Packets will be emailed out to all LDFA members by the Friday prior to the meeting
- Hard copies of the packet are available by request only.

**CHARTER TOWNSHIP OF VAN BUREN
LOCAL DEVELOPMENT FINANCING AUTHORITY
2017 REGULAR MEETING DATES**

Local Development Financing Authority Meetings are held on the
2nd Tuesday of every other month at 2:00 p.m.,
except for the months of March and November when meetings will be held on the
2nd Wednesday of said months (due to scheduled elections),
in the Denton Room at
Van Buren Township Hall, 46425 Tyler Road, Van Buren Township, MI 48111

January 10, 2017

March 15, 2017

May 9, 2017

July 11, 2017

September 12, 2017

November 15, 2017

*In compliance with the Americans with Disabilities Act,
reasonable accommodations will be made available with advance notice.*

For more information, please call: 734.699.8913

LDFA Bylaws

LOCAL DEVELOPMENT FINANCING AUTHORITY
OF THE
CHARTER TOWNSHIP OF VAN BUREN

BY LAWS

ARTICLE I

Purpose and powers. The purpose or purposes for which the Authority is organized are as follows: To encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing.

ARTICLE II

Section 1. The business and property of the Authority shall be managed and directed by the board of directors, whom will each take and subscribe to the constitutional oath. The members shall serve four (4) year terms of office from the date of their respective appointment, except as provided for in the ordinance creating the Authority, and shall be non-compensated but reimbursed for actual sanctioned expenses.

Section 2. The board shall include seven (7) members appointed by the Township Supervisor, subject to the approval of the Township Board.

Section 3. The board shall include one (1) member appointed by the county board of commissioners of the county in which the Authority is located. The board shall include one (1) member representing a community or junior college in whose district the Authority is located appointed by the chief executive officer of that community or junior college. The board shall also include two (2) members appointed by the chief executive officer of each local government unit, other than the Township which levied twenty percent (20%) or more of the ad valorem property taxes levied against all property located in the Authority district.

Section 4. The board of directors shall annually at its first regular meeting of the calendar year designate one of its members as chairperson, one of its members as vice chairperson, and one of its members as corresponding secretary. The officers so elected shall serve a term of one (1) year or any part thereof as may be determined, and until his/her successor is designated. No term of office created under this section shall extend beyond the term of the member designated. All officers shall take their respective office at the next regular or special meeting.

ARTICLE III

Section 1. All regular meetings shall be held in the Township of Van Buren, County of Wayne, Michigan.

Section 2. A regular meeting of the board of directors will be held at 2:00 PM on the second Tuesday of every other month.

Section 3. Special meetings shall be held whenever called by the direction of the chairperson, director, Supervisor of the Township of Van Buren, or any six (6) members of the board of directors on eighteen (18) hours written notice of the time and place of the meeting.

Section 4. Any six (6) members of the board of directors shall constitute a quorum, and the affirmative or negative vote of six (6) members shall be necessary for the transaction of any and all business or passage or denial of any resolution. Three unexcused absences, by any member, will result in automatic resignation from the LDFA.

Section 5. At meetings of the board of directors, business shall be conducted in accordance with Roberts Rules of Order.

Section 6. Public Comment. Public Comment contains the following imposed regulations:

- The speaker is limited to five (5) minutes;
- There shall be no debate: and
- The speaker is encouraged to provide written copies of his/her comments.

Section 7. Teleconferencing. Any member of the board of directors may attend and participate at a regular or special meeting via teleconferencing. Teleconferencing shall be subject to the following regulations:

- A quorum of the board of directors shall be physically present at the meeting.
- A speaker phone or similar device which allows the public the opportunity to listen and to participate in the meeting shall be provided at the location of the meeting where the members are physically present.
- The telecommuter shall ensure the location they select to telecommute from is quiet and any background noise is limited.
- Meeting minutes shall indicate those physically present and those present through teleconference.
- Requests to participate in a meeting via teleconference shall be made to the Chairperson/designee at least two (2) business days prior to the meeting. The Chairperson/designee shall have discretion to allow or not allow that member to attend via teleconference. The decision of the Chairperson/designee shall be final.
- The member of the board of directors telecommuting and compliant with these regulations shall not be authorized to vote on any items presented to the board of directors. When any members are teleconferencing all votes of the board of directors shall be made via roll call vote to ensure the accuracy of the vote.

ARTICLE IV

Section 1. The chairperson shall preside at meetings of the board of directors and shall do and perform such other duties as may from time to time be assigned to him/her by the board of directors. The vice chairperson shall perform the duties of the chairperson in the chairperson's absence and such other duties as shall from time to time be assigned to him by the board of directors.

Section 2. Director. The board of directors may recommend the employment and compensation of a director, subject to the approval of the Township Board. A member of the board of directors is not eligible to hold the position of director. Before entering upon the duties of his/her office, the director shall take and subscribe to the constitutional oath, and furnish a bond through the Township's existing insurance program by posting a bond in the penal sum determined in the ordinance establishing the Authority, payable to the board of directors, approved by the Township Board, and filed with the Van Buren Township Treasurer. The premium of the bond shall be deemed an operating expense of the Authority, payable from funds available to the board of directors for expenses of operation. The director shall be the executive director of the Authority. Subject to the approval of the LDFA, the director shall supervise, and be responsible for the preparation of plans and performance of the functions of the Authority in the manner authorized by Act 281. The director shall attend meetings of the board of directors, and shall render to the board of directors and to the Township Board of Trustees a regular report covering the activities and financial condition of the Authority. If the director is absent or disabled, the board of directors may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of his/her office, the acting director shall take and subscribe to the oath, and furnish a bond, as required of the director. The acting director shall furnish the board of directors with information or reports governing the operation of the Authority as the board of directors requires.

Section 3. All purchasing shall be in compliance with its adopted policy.

Section 4. The LDFA may authorize the director or an agent or agents of the board of directors to enter into any contract or execute and deliver any instrument on behalf of the Authority within the limits authorized by Act 281. The authorization may be general or confined to specific instances.

Section 5. The LDFA may employ such manual, technical, financial and professional assistance as in its judgment may be necessary and is incidental to carry out the purpose of the Authority when funds are available.

Section 6. The fiscal year shall begin with the first day of January and end on the 31st day of December in each year.

Section 7. The LDFA shall have an annual audit of its business and the result thereof shall be submitted to the governing body of the Township. The audit may be completed as part of the regular audit of the Township. This shall be deemed an operating expense of the LDFA.

ARTICLE V

Section 1. The board of directors shall have power to make, alter or amend the bylaws in whole or in part.

Section 2. These bylaws shall become effective upon approval of the Board of Trustees of the Charter Township of Van Buren. Until such approval, the bylaws shall be temporary bylaws for the Authority.

Current LDFA Budget

Charter Township of Van Buren
LDFA Fund

		2014	2016	2016	2016	2017
		Actual	Actual	Budget	Amended	Proposed
Revenue:						
251-000-403-000	Property Tax Capture	500,717	520,812	550,000	626,111	502,043
251-000-573-000	Local Comm Stabilization Approp.	-	15,731	-	75,561	99,659
251-000-664-000	Interest Income	42,248	29,269	5,000	700	500
251-000-698-000	Bond Sales Proceeds	-	12,180,000	-	-	-
251-000-699-000	Bond Premium	-	820,737	-	-	-
	Total Revenue	642,965	13,576,549	555,000	602,372	602,202
Expenditures:						
251-000-702-000	Director Salary	2,000	2,000	2,000	2,000	2,000
251-000-703-000	Secretary	2,000	2,000	2,000	2,000	2,000
251-000-705-000	Employee Wages - Administrative	3,000	3,000	3,000	3,000	3,000
251-000-719-000	Allocated Fringes	1,000	1,000	1,000	1,000	1,000
251-000-727-000	Office Supplies	-	-	-	-	-
251-000-728-000	Postage	-	-	-	-	-
251-000-801-000	Auditing/Accounting	3,000	6,465	5,000	5,000	5,000
251-000-802-000	Attorney Fees	48,765	80,191	100,000	120,000	100,000
251-000-803-000	Consultant	-	750	1,000	6,500	1,000
251-000-966-000	Other	1,000	2,044	2,000	2,000	2,000
251-000-972-000	Ecorse/Hannan Rd. Improve	-	-	-	-	-
251-000-992-000	Bond Issuance Costs	-	174,056	-	-	-
251-000-994-000	Bond Principal	135,000	575,000	-	-	-
251-000-994-001	Deposit with Bond Escrow Agent	-	17,352,881	-	-	-
251-000-995-000	Interest Expense	823,021	420,701	552,925	552,825	521,081
251-000-996-000	Handling Fees	300	300	300	300	300
	Total Expenditures	1,017,886	18,620,189	669,225	694,725	637,381
	Net Income (Expense)	(474,921)	(5,043,640)	(114,225)	(92,353)	(35,179)
Beginning Fund Balance						
		6,263,043	5,789,022	694,521	745,383	653,030
Excess of revenues over expenses						
		(474,921)	(5,043,640)	(114,225)	(92,353)	(35,179)
Fund Balance (Deficit)						
		5,788,122	745,383	580,296	653,030	617,850

Development Plan

Local Development Finance Authority
of Van Buren Charter Township

Section 15 (2) (a) Boundaries of the District

A description of the property to which the plan applies in relation to the boundaries of the authority district and a legal description of the property.

The boundaries of the Visteon Village Development Area lie within the boundaries of the Local Development Finance Authority (LDFA) District as established by Resolution of the Township Board of Van Buren Charter Township. The relationship of the area to which this plan applies to the entire LDFA District is presented graphically on Map 1, LDFA Boundary and Eligible Property. No other development areas exist within the LDFA District at this time.

Four separate but adjacent parcels constitute the property to which this plan applies. The location of these parcels is shown on Map 1, LDFA Boundary and Eligible Property.

The legal description of the boundaries of the LDFA District and the legal descriptions of the four parcels that constitute the property to which this plan applies are presented below.

THE LEGAL DESCRIPTION OF THE BOUNDARIES OF THE LDFA DISTRICT:

Beginning at the northeast corner of Section 12, T. 3 S., R. 8 E. in Van Buren Township, Wayne County, Michigan; thence southerly along the east boundary line of said Section 12 to the southeast corner of said Section 12; thence southerly along the east boundary line of Section 13, T. 3 S., R. 8 E. approximately 1,920 feet; thence westerly to the west right-of-way line of Hannan Road and the northeast corner of parcel V125-83-049-99-0015-001; thence northwesterly along the south and west right-of-way line of the I-275 Expressway to its intersection with the south right-of-way line of Tyler Road; thence southwesterly along said south right-of-way line of Tyler Road to the northwest corner of parcel V125-83-050-99-0001-000; thence westerly approximately 120 feet to the west right-of-way line of Haggerty Road and the northeast corner of parcel V125-83-053-99-0002-000; thence northerly to the southeast corner of V125-83-044-99-0005-701; thence easterly to the southwest corner of V125-83-047-99-0007-000; thence northeasterly along the north right-of-way line of Tyler Road to its intersection with the west right-of-way line of the I-275 Expressway; thence northwesterly along the west right-of-way of I-275 and east boundary line of parcel V125-83-047-99-0009-000 continuing across Old Tyler Road approximately 100 feet and continuing northwesterly along the east boundary line of parcel V125-83-047-99-0002-700 and the west right-of-way of the I-275 Expressway; thence northwesterly along the west right-of-way line of the I-275 Expressway to its intersection with the south right-of-way line of Ecorse Road; thence westerly along the north boundary of parcel V125-83-046-99-0002-000 and the south right-of-way line of Ecorse Road to the northwest corner of said parcel V125-83-046-99-0002-000; thence westerly approximately 120 feet across Haggerty Road to the northeast corner of parcel V125-83-041-99-0001-001; and continuing north along the easterly boundary of parcel V125-83-041-99-0001-714; thence northerly across

Ecourse Road to the southeast corner of parcel V125-83-008-99-0044-000 thence easterly across Haggerty Road to the southwest corner of parcel V125-83-003-99-0020-000; thence easterly along the north right-of-way line of Ecourse Road to its intersection with the west right-of-way line of the I-275 Expressway; thence northeasterly along said west right-of-way line of the I-275 Expressway to the northeast corner of parcel V125-83-003-99-0007-000; thence east across the right-of-way of the I-275 Expressway to the east right-of-way line of the I-275 Expressway; thence southeasterly along said east right-of-way line of the I-275 Expressway to its intersection with the northwest corner of parcel V125-83-003-99-0051-001; thence easterly along the north boundary line of parcels V125-83-003-99-0051-001, V125-83-003-99-0053-000, V125-83-003-99-0055-000, V125-83-003-99-0057-000; V125-83-004-99-0010-000, V125-83-004-99-0001-000 through V125-83-004-99-0009-000, V125-83-004-99-0020-700 to the northeast corner of said parcel V125-83-004-99-0020-700; thence easterly across parcel V125-83-003-99-0003-702 to the northwest corner of parcel V125-83-004-99-0022-002, thence easterly along the north boundary of parcels V125-83-004-99-0022-002 through V125-83-004-99-0022-004, thence continuing easterly along the north boundary line of parcels V125-83-004-99-0023-000 through V125-83-004-99-0027-000 to the centerline of Hannan Road which is the east boundary of Section 1 T. 3 S., R. 8 E.; thence southerly along said east boundary line of Section 1, T. 3 S., R. 8 E to the south east corner of Section 1, T. 3 S., R. 8 E and northeast corner of Section 12, T. 2 S., R. 8 E, the point of beginning.

THE LEGAL DESCRIPTION OF THE FOUR PARCELS THAT CONSTITUTE THE ELIGIBLE PROPERTY TO WHICH THIS PLAN APPLIES:

Parcel South of Edison Corridor and North of Tyler

Land in the Township of Van Buren, Wayne County, Michigan situated in and being part of the NE 1/4, the SE 1/4, the SW 1/4, and the NW 1/4 of Section 12, Town 3 south, range 8 east and particularly described as: Commencing at the north 1/4 corner of said Section 12; thence S. 02° 04' 25" E, 915.18' along its north and south 1/4 line to the point of beginning of this description; thence S. 89° 58' 55" E 244.54'; thence N. 88° 35' 54" E.1115.73'; thence S. 01° 51' 16" E, 1791.79' to the east and west 1/4 line of said Section 12; thence along said 1/4 line S. 89° 32' 06" E.686.58'; thence S. 01° 35' 43" E. 994.54'; thence S. 89° 43' 01" E. 425.27'; thence S. 01° 17' 11" E. 350.00', Thence S. 89° 43' 11" E. 250.00' to the east line of Section 12, also the centerline of Hannan Road; thence along said east line S. 01° 17' 11" E. 175.00'; thence N. 89° 43' 11" W. 250.00'; thence S. 01° 17' 11" E. 125.23'; thence N. 89° 41' 06" W, 421.77'; thence N. 01° 35' 43" W. 245.95; thence N. 89° 44' 06" W. 608.26'; thence N. 89° 42' 18" W. 77.00'; thence S. 00° 58' 08" E. 203.27; thence N. 89° 33' 07" W. 98.01'; thence S. 00° 38' 16" E. 361.37' to the centerline of Tyler Road, thence along said centerline S. 88° 41' 38" W. 736.02'; thence N. 01° 18' 22" W. 55.00' to the northerly right-of-way line of Tyler Road; thence along said northerly line the following six courses; S. 88° 41' 38" W. 699.57' N., N. 89° 44' 33" W. 110.02', N. 41° 27' 22" W. 46.10', S. 89° 08' 43" W. 85.00' S. 54° 49' 19" W. 53.20', and S. 89° 07' 31" W. 283.21' to a point on the easterly right-of-way line of interstate highway I-275, said point being on a curve concave to the north, said curve having a radius of 3716.72' and a long chord bearing N. 13° 32' 09" W. 1255.48'; thence northerly 1261.53' along the

arc of said curve to its non-tangent end point; thence continuing along said easterly right-of-way line of I-275 N. 00° 29' 44" W. 748.25' to the east and west 1/4 line of said Section 12; thence along said 1/4 line S. 89° 32' 03" E. 198.90'; thence continuing along the east line of said highway I-275 the following four courses; N. 00° 35' 01" W. 1112.15', N. 11° 53' 30" E. 341.65', N. 33° 30' 40" E. 344.59', and N. 44° 19' 15" E. 18.29'; thence S. 89° 37' 52" E. 532.50' to the north and south 1/4 line of said Section 12; thence along said 1/4 line N. 02° 04' 25" W. 2.29'; to the point of beginning. Contains 221.4719 acres more or less and is subject to any and all easements, restrictions, or rights-of-way of record.

Parcel North of Edison Corridor and South of Ecorse Road

Land in the Township of Van Buren, Wayne County, Michigan situated in and being part of the NE 1/4 of Section 12, and the NW 1/4 of Section 12, Town 3 south, range 8 east and particularly described as: Commencing at the north 1/4 corner of said Section 12; thence S. 02° 04' 25" E. 251.45' along its north and south 1/4 line to the south line of Ecorse Road and the point of beginning of this description; thence along said south line the following three courses, N. 89° 49' 05" E. 711.08', S. 01° 51' 16" E. 30.01', and N. 89° 49' 05" E. 652.14'; thence S. 01° 51' 16" E. 360.76'; thence S. 88° 35' 54" W. 1110.61'; thence N. 89° 58' 55" W. 250.63' to the north and south 1/4 line of said Section 12; thence S. 02° 04' 25" E. 21.04' along said 1/4 line; thence N. 89° 20' 10" W. 574.74' to the southeasterly line of interstate highway I-275; thence along said highway the following two courses; N. 44° 19' 20" E. 355.56' and N. 00° 33' 35" E. 172.51' to the south line of Ecorse Road; thence N. 89° 50' 57" E. 308.86' to the beginning. Contains 16.0914 acres more or less and is subject to any and all easements, restrictions, or rights of way of record.

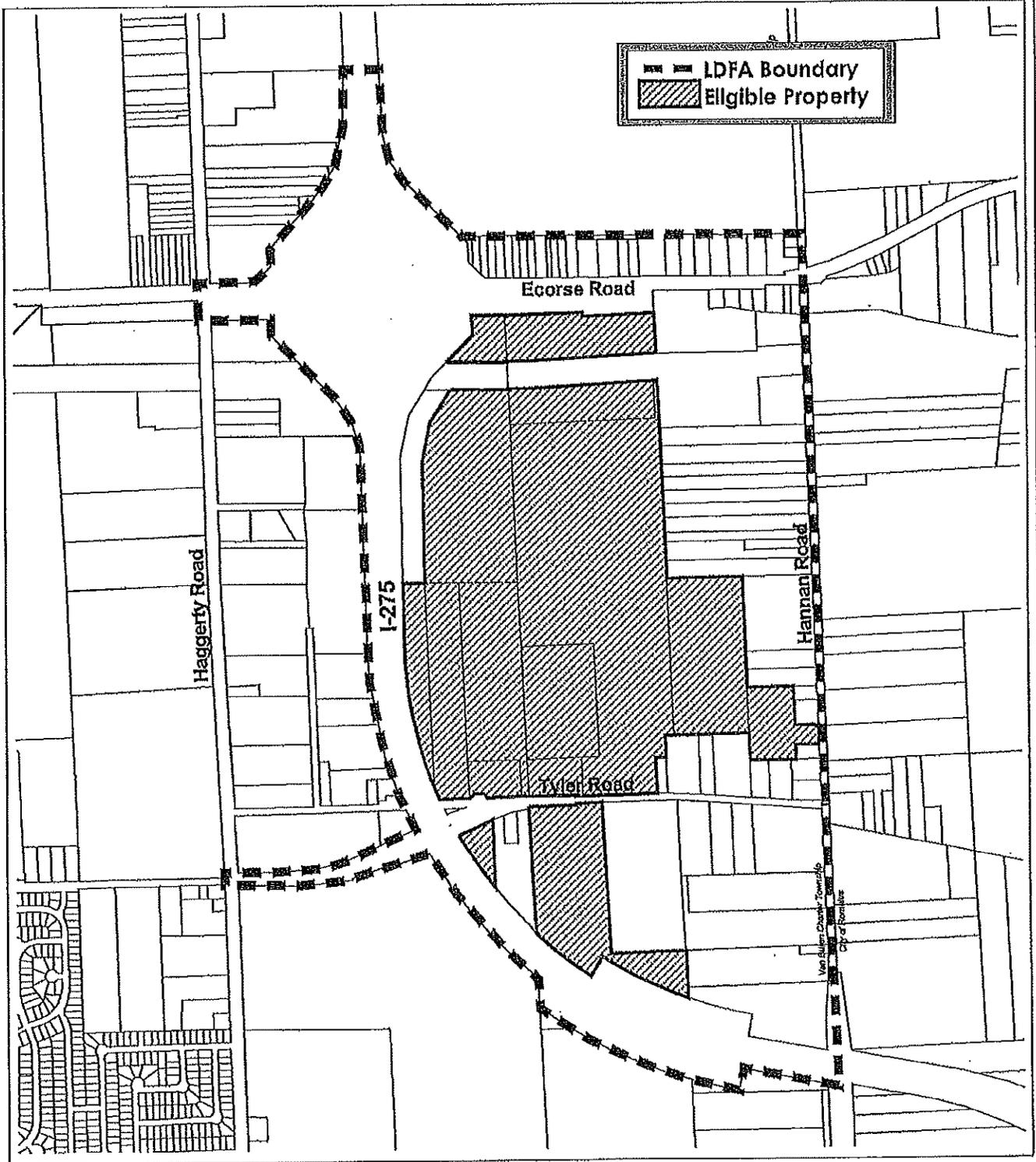
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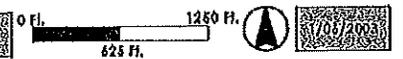
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Van Buren Charter Township, Wayne County, Michigan



Base Map Source: McKenna Associates, Inc.

Map 1 LDFA Boundary and Eligible Property



Section 15 (2) (b) Boundaries of the Property

Designation of the boundaries of the property to which the plan applies in relation to highways, streets, or otherwise.

The property to which the plan applies is bounded on the north by Ecorse Road, on the west by I-275, and on the south by Tyler Road. Hannan Road lies to the east of the property to which the plan applies, however, only a small portion of the eligible property abuts Hannan Road.

The specific boundaries of the property to which the plan applies are indicated on Map 1, LDFA Boundary and Eligible Property.

Section 15 (2) (c) Existing Conditions

The location and extent of existing and other public facilities in the vicinity of the property to which the plan applies.

Public facilities in the vicinity of the property to which the plan applies include transportation, water, sewer, and drainage infrastructure, and a cemetery, fire station and community college.

The location of Ecorse Road, Haggerty Road, I-275, Tyler Road and Hannah Road, relative to the property to which the plan applies, are shown on Map 1, LDFA Boundary and Eligible Property.

Water lines generally run along Ecorse, Haggerty, Tyler, and Hannan Roads. Sewer lines generally run along Ecorse, Haggerty, and Hannan Road. The McClaughry Drain runs along Ecorse Road. The Post-Robson Drain runs from the McClaughry Drain to Grace Lake on the property to which the plan applies.

A Township cemetery and fire station are located on the north side of Tyler Road, just west of the intersection with Hannan Road. Wayne County Community College Western Campus is located west of I-275, south of Tyler Road.

The location, character, and extent of the categories of public and private land uses then existing and proposed for the property to which the plan applies, including residential, recreational, commercial, industrial, educational, and other uses.

The property to which the plan applies is currently undeveloped and vacant. It was formerly used as a sand and gravel mining operation.

The proposed development calls for the development of 56.5 acres, which is approximately 21.5 percent of the total area (263.0 acres) of the property to which this plan applies. Buildings and parking will occupy 7.5 acres of the property. The proposed development is 9 office and technology use buildings with a total gross square footage of 869,449, and a ground floor area of 327,477 square feet. The current development plan calls for the remainder of the property to which this plan applies to be used for utilities, roads, stormwater management, and open space.

Section 15 (2) (d) Acquisition of Public Facilities

A description of the public facilities to be acquired for the property to which the plan applies, a description of any repairs and alterations necessary to make those improvements, and an estimate of the time required for completion of the improvements.

The only public facility that exists on the property to which the Plan applies is the Post-Robson County Drain. No improvements to this drain are included in this Development Plan. No public facilities will be acquired by the LDFA.

Section 15 (2) (e) Development of Public Facilities

The location, extent, character, and estimated cost of the public facilities for the property to which the plan applies, and an estimate of the time required for completion.

The general location of the following development activities is shown on Map 2 at the end of this section.

A. Engineering fees for the widening and/or reconstruction of Ecorse, Tyler, and Hannan Roads.

Portions of Ecorse, Tyler, and Hannan Roads adjoining the eligible property will be upgraded. This activity includes the engineering fees required to design these road improvements.

Estimated cost: \$550,000: \$500,000 + 10% contingency
Estimated completion date: February 1, 2003

B. Perimeter road entrance improvements.

Improvements, including signals, lane improvements, lighting, and landscaping will be constructed at the intersection of the new interior access road, servicing the eligible property, with Ecorse, Tyler and Hannan roads. Improvements are planned for the intersections at Ecorse Road and at Hannan Road. This project includes design and construction of all intersection improvements.

Estimated cost: \$220,000: \$200,000 + 10% contingency
Estimated completion date: November 1, 2003

C. Construction of access road.

A new access road must be constructed in order to facilitate construction of the private improvements to the eligible property. This road will run on a north-south alignment, from Ecorse Road, and curve to intersect Hannan Road, with a second leg connecting this new road to Tyler Road.

Project elements include engineering and design, grading and site preparation, curb and gutter, edge drain, sidewalks, pathways, landscaping, and street lighting. It is estimated that approximately 5,350 linear feet of access road and associated improvements will be constructed.

Estimated cost: \$2,062,657; \$1,875,143 + 10% contingency
Estimated completion date: October 1, 2003

D. Site preparation.

Removal of trees, brush, and miscellaneous debris will be completed in order to prepare the site for grading and other improvements. Clearing and grubbing activities will be required for approximately 50 acres of the site.

Estimated cost: \$247,500; \$225,000 + 10% contingency
Estimated completion date: December 15, 2002

E. Site earthwork.

The eligible property must be graded and balanced in order to support the improvements proposed by Visteon. Site preparation activities include engineering; erosion control; site cut, fill, and compaction; excavation of the lake area, installation of geo-fabric and stone base, and soil compaction in the lake area; compaction of building and parking areas; and construction of a retaining wall on the north side of the parking lot to minimize grading. Fill will be imported and spoil removed as required.

Estimated cost: \$7,623,074; \$6,930,067 + 10% contingency
Estimated completion date: May 2003

F. Site environmental response activities.

Buried debris and obstructions, and identified areas of soil contamination must be removed and disposed of in a licensed facility. Areas impacted by contaminated soils must be re-tested to ensure all contamination has been addressed.

Estimated cost: \$544,500; \$495,000 + 10% contingency
Estimated completion date: January 15, 2003

G. Lake enhancements.

The lake within the eligible property will be improved to facilitate its use for stormwater management. Improvements include removal of debris, edge stabilization, 3,000 linear feet of shallow water habitat, stone terracing, and 7,180 square yards of rip rap revetment. The Rouge Project Office (RPO) will be responsible for funding in the amount of \$112,500, which is one-half of the costs for shoreline seeding and vegetation intended to create shallow water habitat.

Estimated cost: \$2,630,208: \$2,391,098 + 10% contingency
Estimated completion date: August 2003

H. Building piling and special foundation.

Due to the site geology, pilings and special building foundations will be required in order to develop the property. This work element includes engineering design and construction.

Estimated cost: \$5,272,806: \$4,793,460 + 10% contingency
Estimated completion date: April 2003

I. Wetland mitigation.

Approximately 6 acres of new wetlands will be created within the eligible property to replace other wetlands impacted by other Development Plan activities. This activity will be completed by October 1, 2003, however, periodic monitoring and enhancement may occur for up to five years from the date the new wetlands are created, as required by MDEQ.

Estimated cost: \$770,000: \$700,000 + 10% contingency
Estimated completion date: October 1, 2003

J. Stormwater management system.

Development of the eligible property will require the construction of a stormwater management system. The public facilities to be constructed for this work element include approximately 25,000 linear feet of storm sewers, 35,000 linear feet of edge drains, 9 stormwater filtration structures, other miscellaneous stormwater structures, and other measures required to protect the quality of groundwater impacted by development of the eligible property. The stormwater management system will be completed by November 2003, although measures to protect groundwater quality may be completed as required throughout the term of this LDFA Development Plan.

Estimated cost: \$2,081,485: \$2,289,634 + 10% contingency
Estimated completion date: November 2003

K. Utilities: Sanitary sewer.

Publicly owned sanitary sewer leads will be constructed for all buildings located on the eligible property. This includes construction of approximately 4,730 linear feet of sanitary sewer lines, 35 sewer manholes, 11 clean-outs, and 2 lift stations. The Van Buren Township Department of Water and Sewer will be responsible for constructing approximately 5,400 linear feet of sanitary sewer main in the County road right-of-way. The Department's share of the costs for this work item is \$279,400.

Estimated cost: \$690,162: \$627,420 + 10% contingency
Estimated completion date: December 1, 2003

L. Utilities: Water main.

Approximately 2,200 linear feet of publicly owned water mains will be constructed to all buildings located on the eligible property. Other public facilities for water to be constructed include 5,385 linear feet of water lines for the fire protection loop, and 10 fire hydrants. The Van Buren Township Department of Water and Sewer will be responsible for constructing approximately 5,500 linear feet of water main in the County road right-of-way. The Department's share of the costs for this work item is \$272,800.

Estimated cost: \$884,565: \$804,150 + 10% contingency
Estimated completion date: December 1, 2003

M. Utilities: Gas service.

The project includes the installation of 3,150 linear feet of privately owned natural gas lines within public easements on the eligible property. This project also includes the development of a pressure reducing station.

Estimated cost: \$224,950: \$204,500 + 10%
Estimated completion date: November 1, 2003

N. Utilities: Telecommunications.

Approximately 5,000 linear feet of telephone and cable ductbanks and feeders will be installed within publicly owned easements on the eligible property.

Estimated cost: \$858,653: \$780,594 + 10% contingency
Estimated completion date: November 1, 2003

O. Utilities: Electrical service.

Electrical transmission lines will be installed to service all buildings on the eligible property. These lines will be constructed underground within public easements. An electrical substation will also be constructed within a public easement on the eligible property for the dedicated service of the eligible property.

Estimated cost: \$3,866,500: \$3,515,000 + 10% contingency
Estimated completion date: November 1, 2003

P. Barrier free improvements to buildings.

Improvements to facilities used by the public in order to comply with the State Construction Code Act of 1972 (PA 230 of 1972, MCL 125.1501 to 125.1531) will be funded as a part of the Development Plan. These improvements include 15 elevators, access ramps and automatic doors.

Estimated cost: \$2,292,895: \$2,084,450 + 10% contingency
Estimated completion date: June 2004

Q. Tree replacement.

In order to comply with the Van Buren Township Woodland Ordinance, approximately 2000 trees will be planted on the eligible property to compensate for trees removed for other development activities.

Estimated cost: \$1,100,000: \$1,000,000 + 10% contingency
Estimated completion date: October 2004

R. Geotechnical engineering and design.

In order to develop the eligible property, extensive geotechnical tests, analyses, and design is required. This work item also includes managing and overseeing the LDFA construction work by the construction manager and oversight team.

Estimated cost: \$3,734,204: \$3,394,731 + 10% contingency
Estimated completion date: October 2004

S. Acquisition of land.

Land along Ecorse Road may be purchased by the LDFA to provide additional right-of-way for the widening of the road and for improvements to the intersection. Land will also be purchased for the right-of-way for the access road to cross DTE's right-of-way for transmission lines.

Estimated cost: \$856,900: \$779,000 + 10% contingency
Estimated completion date: November 1, 2003

Section 15 (2) (f) Construction Staging

A statement of the construction or stages of construction planned, and the estimated time for completion of each stage.

The proposed project construction schedule is provided in Appendix C.

Section 15 (2) (g) Conveyance of Project Area Property

A description of any portions of the property to which the plan applies, which the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

The LDFA has no plans at the present time to sell, donate, exchange, or lease to or from Van Buren Charter Township any land in the development area.

Section 15 (2) (h) Zoning and Other Changes

A description of the desired zoning changes and changes in streets, street levels, intersections, and utilities.

The proposed development and use of the property to which this plan applies is permitted under the current zoning district classification. No change in zoning will be required.

The proposed development will benefit from improvements to the I-275 interchange ramps, and to Ecorse, Tyler, and Hannan Roads. These improvements will be completed by Wayne County and Michigan Department of Transportation.

This Development Plan includes improvements to intersection of the new interior road with Ecorse, Tyler, and Hannan Roads. These improvements include signals, lane improvements, lighting, and landscaping.

Section 15 (2) (i) Project Budget

An estimate of the cost of the public facility or facilities, a statement of the proposed method of financing the public facility or facilities, and the ability of the authority to arrange the financing.

The total estimated cost for the items included in this development plan is \$36,719,208. The detailed cost estimate is included in Appendix A. The LDFA will be responsible for \$36,054,508, RPO will be responsible for \$112,500, and the Van Buren Township Department of Water and Sewer will be responsible for \$552,200.

To fund its share of the development cost, the LDFA will issue bonds directly. Van Buren Charter Township will pledge its limited tax, full faith and credit to the repayment of the bonds. The LDFA will repay the bonds through its tax increment revenue, as described in the Tax Increment Financing Plan. The estimate of incremental tax revenues is provided in Appendix D.

Section 15 (2) (j) Designation of Beneficiaries

Designation of the person or persons, natural or corporate, to whom all or a portion of the public facility or facilities is to be leased, sold, or conveyed, and for whose benefit the project is being undertaken, if that information is available to the authority.

The real property to which the plan applies is currently owned by Oasis Holdings Trust, LLC, and is leased to Visteon Corporation. Although the entity owning the property may change in the future, Visteon Corporation will remain the lessee.

The stormwater management system will be owned by either Visteon Corporation or Oasis Holdings Trust, LLC. The sewer and water infrastructure will be owned by Van Buren Charter Township. The gas lines and electrical lines will be owned by DTE Energy Company, coming onto the property, and will be owned by either Visteon Corporation or Oasis Holdings Trust, LLC, connecting to individual buildings on the property. The electrical substation will be owned by DTE Energy Company. The telephone and cable lines will be owned by SBC Communications, Incorporated, (formerly Ameritech), coming onto the property, and will be owned by either Visteon Corporation or Oasis Holdings Trust, LLC, running to the individual buildings.

The project is being undertaken for the benefit of Visteon Corporation, which will construct its corporate headquarters on the property to which the plan applies, as described elsewhere in this document.

Section 15 (2) (k) Procedures for Conveying Property

The procedures for bidding for the leasing, purchasing, or conveying of all or a portion of the public facility or facilities upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased sold, or conveyed to those persons.

The Authority currently owns no real property and has no plans to own real property in the future.

The Development Plan provides for the Authority to purchase additional right-of-way along Ecorse Road to allow for the widening of and improvements to the road. The Authority will also purchase land from the access road right-of-way to cross the right-of-way for DTE Energy's transmission lines. These road rights-of-way will be conveyed to Wayne County upon the completion of construction.

There will be an express agreement between the Authority and Van Buren Charter Township for the conveyance of the water and sewer infrastructure. There will be an express agreement between the Authority and DTE Energy Company for the conveyance of the gas lines and electrical lines. There will be an express agreement between the Authority and SBC Communications, Incorporated, for the conveyance of the telephone and cable lines.

Section 15 (2) (I-0) Relocation

Estimates of the number of persons residing on the property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

A plan for establishing priority for the relocation of persons displaced by the development.

Provision for the costs of relocating persons displaced by the development, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, 42 U.S.C. 4601 to 4655.

A plan for compliance with Act 277 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

The property to which the plan applies is currently vacant and unused. There are no residents on the property and thus there will be no relocations. The above provisions of the Local Development Financing Act are not applicable to this Development Plan.

Section 15 (2) (p) Other Information

Other material or information which the authority or governing body considers pertinent.

No other pertinent information regarding the Development Plan is presented at this time.

Tax Increment Financing Plan

Local Development Finance Authority
of Van Buren Charter Township

Section 12 (1) (a) Reasons that the Plan Will Result in Captured Assessed Value

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

Tax increment financing will be used to finance public improvements on and adjacent to the property to which the plan applies. The financing will be accomplished by capturing, for a specified period of time, the increased tax revenues generated as a result of the development planned for the subject property. As private investments add to the tax base on eligible properties, the *increased* tax revenues will be captured by the Authority and used for the purposes outlined in this Plan and the Development Plan.

The subject property was formerly used for a sand and gravel mining operation. In the early 1990's high value, single family residential development was proposed for the subject property. Much of the Township has experienced significant single family residential development since then. The proposed development for the subject property never materialized, due to the costs of mitigating environmental constraints on the subject property.

The proposed Development Plan is necessary in order to make private development and use of the subject property financially feasible. Without the proposed development plan, funded through tax increment financing, it is unlikely that private development of the subject property will occur in the foreseeable future.

Visteon Corporation has indicated its willingness to invest approximately \$270,000,000 to develop the subject property for its corporate headquarters, if, among other things, the Authority implements the proposed Development Plan.

Thus, it is unlikely that the subject property will be developed without implementation of the Development Plan, and therefore there would be no significant increase in tax revenues. However, implementation of the Development Plan, funded through tax increment financing, will leverage significant private investment and result in a substantial increase in tax revenues.

Section 12 (1) (b) Captured Assessed Value

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

A schedule of the projected captured assessed value for each year of the Plan is provided in Appendix D. Additional increases beyond the projected amounts may result from additional construction, appreciation in property values, site improvements, additional development, and inflation.

This Plan includes the capture of one-hundred percent (100%) of the assessed value. This Plan does not exclude from captured assessed value any growth in property values resulting solely from inflation.

Section 12 (1) (c) Estimated Tax Increment Revenues

The estimated tax increment revenues for each year of the plan.

The projected tax increment revenues for each year of the Plan are provided in Appendix D.

Section 12 (1) (d) The Tax Increment Procedure

A Detailed Explanation of the Tax Increment Procedure

The first step in the tax increment financing procedure is establishing the base year that will serve as the point of reference for determining future tax increments. Adoption of a tax increment financing plan establishes the "initial assessed value", which is defined in the Local Development Financing Act as follows:

"Initial assessed value means the assessed value of the eligible property identified in the tax increment financing plan...at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which the equalization has been completed at the time the resolution is adopted..."

For this Tax Increment Financing Plan, the initial assessed value is based on the assessment roll in place on December 31, 2001, for which equalization was completed in May of 2002. The initial assessed value for all real and personal property to which this plan applies are provided in Appendix B.

As the Development Plan is implemented, private sector investment on eligible properties will result in additions of real and personal property value to the tax base. Each year that this Plan is in effect, the total current assessed value of the eligible properties will be compared to the initial assessed value. The captured assessed value is the amount by which the current assessed value exceeds the initial assessed value.

The tax increment revenues are determined for each year by applying the current millage rate for all taxing jurisdictions to the captured assessed value. Throughout the duration of this Plan, the taxing jurisdictions will continue to collect property taxes based on the initial assessed value. In other words, none of the taxing jurisdictions will see a decrease in property tax revenues due to the implementation of this Tax Increment Financing Plan.

The tax increment revenues to be collected by the Authority will be based on the *operating millage* of the taxing jurisdictions, rather than the *total millage*. The *debt millage* will be unaffected by this Plan and will continue to generate tax revenue for the taxing jurisdictions based on the current assessed value. Millage rates at the time of the adoption of this Plan are provided in Table 1.

**Table 1
Millage Rates, 2003**

Jurisdiction and Type of Millage	Total Millage Rate	LDFFA Millage Rate
<u>Van Buren Township</u>		
Township Tax - Operating	0.9245	0.9245
Public Safety - Operating	2.9397	2.9397
Water/Sewer - Operating	5.9000	5.900
Sub-Total	9.7642	9.7642
<u>Wayne County</u>		
Wayne County Taxes - Operating	6.6556	6.6556
Wayne County Jail - Operating	0.9432	0.9432
Wayne County Parks - Operating	0.2473	0.2473
Wayne County Community College - Operating	2.4995	2.4995
Huron County Metro Park - Operating	0.2186	0.2186
Sub-Total	10.5642	10.5642

The Township will collect the tax increment revenues in accordance with the normal property tax collection processes and schedules, and will distribute the revenues to the Authority.

Section 12 (1) (e) Maximum Amount of Bonded Indebtedness

The maximum amount of note or bonded indebtedness to be incurred, if any.

The Authority intends to issue tax increment bonds to finance the proposed public improvements as described in the Development Plan. The maximum amount of bonded indebtedness shall be \$40,000,000.00.

Section 12 (1) (f) Amount of Advance Costs

The amount of operating and planning expenditures of the authority and municipality, the amount of advances extended by or indebtedness incurred by the municipality, and the amount of advances by others to be repaid from tax increment revenues.

The start-up costs of the LDFA, including costs for attorney fees, plan preparation costs, publishing, and other miscellaneous Township expenditures made on behalf of the LDFA are estimated not to exceed \$289,000.00. All costs associated with the LDFA that are incurred by the Township, including start-up and operating costs, shall be reimbursed to the Township by the LDFA.

No other advances have been made by other entities to or on behalf of the Authority.

Section 12 (1) (g) Costs of Plan

The costs of the plan anticipated to be paid from tax increment revenues as received.

Future operating and planning expenditures of the LDFA; including legal and professional fees, administrative costs, auditing and accounting fees, promotional, and other operational costs will be paid from annual revenues. The development of public facilities included in the Development Plan may be paid from annual revenues of the LDFA. Annual budgets will be presented and approved according to the procedures described in the Local Development Financing Act, Public Act 281 of 1986.

Section 12 (1) (h) Plan Duration

The duration of the development plan and the tax increment financing plan.

This Tax Increment Financing Plan and the Development Plan will commence upon adoption by the Van Buren Charter Township Board in 2003, and will end December 31, 2032, for a term of 30 years. This Plan may be amended to extend or shorten its duration.

Section 12 (1) (i) Tax Increment Financing Impact on Taxing Jurisdictions

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

Currently the property to which this plan applies is vacant and undeveloped. Thus, the previous year-to-year increases in value of the eligible properties generated small increases in property tax revenues for the taxing jurisdictions. Since this Tax Increment Financing Plan affects only the *increase* in property values, it follows logically that the Tax Increment Financing Plan will have a negligible impact on property tax revenues that would have been anticipated by and available to the taxing jurisdictions had this Tax Increment Financing Plan not been adopted and, consequently, the development of the Visteon Village project not occurred.

Furthermore, as stated previously, debt millage will be left totally unaffected by this Plan. Debt millage will continue to generate tax revenue for the taxing jurisdictions. The debt millage will be based on the full current State Equalized Value of the developed project, not just the initial assessed value. Thus, the taxing jurisdictions will see an increase in tax revenue from debt millage that would not have been realized if the Tax Increment Financing Plan were not implemented and, consequently, the development of the eligible properties did not occur.

Completion of the Development Plan and the Tax Increment Financing Plan will produce substantial increases in property tax revenues for all taxing jurisdictions. By the year 2032, the first year after the projected termination of this Plan, it is estimated that the total taxable value of the eligible properties will be \$241,702,790, about 300 times greater than the initial taxable value. Based on this increase, the tax revenue generated by the eligible properties is expected to increase by the year 2032 to \$3,474,681. Thus, upon completion of the Plan, the fiscal integrity of all jurisdictions will be strengthened due to the increase in value of taxable property.

The projected tax increment revenues generated by the millage for each of the taxing jurisdictions for each year of the Plan are provided in Appendix D.

Section 12 (1) (j) Legal Description of Property

A legal description of the eligible property to which the tax increment financing plan applies or shall apply upon qualification as an eligible property.

The legal description of the eligible property to which this plan applies is:

Parcel South of Edison Corridor and North of Tyler

Land in the Township of Van Buren, Wayne County, Michigan situated in and being part of the NE 1/4, the SE 1/4, the SW 1/4, and the NW 1/4 of Section 12, Town 3 south, range 8 east and particularly described as: Commencing at the north 1/4 corner of said Section 12; thence S. 02° 04' 25" E. 915.18' along its north and south 1/4 line to the point of beginning of this description; thence S. 89° 58' 55" E 244.54'; thence N. 88° 35' 54" E. 1115.73'; thence S. 01° 51' 16" E. 1791.79' to the east and west 1/4 line of said Section 12; thence along said 1/4 line S. 89° 32' 06" E. 686.58'; thence S. 01° 35' 43" E. 994.54'; thence S. 89° 43' 01" E. 425.27'; thence S. 01° 17' 11" E. 350.00'; Thence S. 89° 43' 11" E. 250.00' to the east line of Section 12, also the centerline of Hannon Road; thence along said east line S. 01° 17' 11" E. 175.00'; thence N. 89° 43' 11" W. 250.00'; thence S. 01° 17' 11" E. 125.23'; thence N. 89° 41' 06" W. 421.77'; thence N. 01° 35' 43" W. 245.95'; thence N. 89° 44' 06" W. 608.26'; thence N. 89° 42' 18" W. 77.00'; thence S. 00° 58' 08" E. 203.27'; thence N. 89° 33' 07" W. 98.01'; thence S. 00° 38' 16" E. 361.37' to the centerline of Tyler Road, thence along said centerline S. 88° 41' 38" W. 736.02'; thence N. 01° 18' 22" W. 55.00' to the northerly right-of-way line of Tyler Road; thence along said northerly line the following six courses; S. 88° 41' 38" W. 699.57' N., N. 89° 44' 33" W. 110.02', N. 41° 27' 22" W. 46.10', S. 89° 08' 43" W. 85.00' S. 54° 49' 19" W. 53.20', and S. 89° 07' 31" W. 283.21' to a point on the easterly right-of-way line of interstate highway I-275, said point being on a curve concave to the north, said curve having a radius of 3716.72' and a long chord bearing N. 13° 32' 09" W. 1255.48'; thence northerly 1261.53' along the arc of said curve to its non-tangent end point; thence continuing along said easterly right-of-way line of I-275 N. 00° 29' 44" W. 748.25' to the east and west 1/4 line of said Section 12; thence along said 1/4 line S. 89° 32' 03" E. 198.90'; thence continuing along the east line of said highway I-275 the following four courses; N. 00° 35' 01" W. 1112.15', N. 11° 53' 30" E. 341.65', N. 33° 30' 40" E. 344.59', and N. 44° 19' 15" E. 18.29'; thence S. 89° 37' 52" E. 532.50' to the north and south 1/4 line of said Section 12; thence along said 1/4 line N. 02° 04' 25" W. 2.29'; to the point of beginning. Contains 221.4719 acres more or less and is subject to any and all easements, restrictions, or rights-of-way of record.

Parcel North of Edison Corridor and South of Ecorse Road

Land in the Township of Van Buren, Wayne County, Michigan situated in and being part of the NE 1/4 of Section 12, and the NW 1/4 of Section 12, Town 3 south, range 8 east and particularly described as: Commencing at the north 1/4 corner of said Section 12; thence S. 02° 04' 25" E. 251.45' along its north and south 1/4 line to the south line of Ecorse Road and the point of beginning of this description; thence along said south line the following three courses, N. 89° 49' 05" E. 711.08', S. 01° 51' 16" E. 30.01', and N. 89° 49' 05" E. 652.14'; thence S. 01° 51' 16" E. 360.76'; thence S. 88° 35' 54" W. 1110.61'; thence N. 89° 58' 55" W. 250.63' to the north and south 1/4 line of said Section 12; thence S. 02° 04' 25" E. 21.04' along said 1/4 line; thence N. 89° 20' 10" W. 574.74' to the southeasterly line of interstate highway I-275; thence along said highway the following two courses; N. 44° 19' 20" E. 355.56' and N. 00° 33' 35" E. 172.51' to the south line of Ecorse Road; thence N. 89° 50' 57" E. 308.86' to the beginning. Contains 16.0914 acres more or less and is subject to any and all easements, restrictions, or rights of way of record.

83-048-99-0004-000

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Section 12 (1) (k) Estimated Job Creation

An estimate of the number of jobs to be created as a result of the implementation of the tax increment financing plan.

Implementation of this Tax Increment Financing Plan will facilitate the completion of the Development Plan and, consequently, the development of the Visteon Village project. Visteon Corporation has estimated that upon the completion of the development, the total increase in employment will be 3,500 jobs in Van Buren Charter Township.

Michigan Economic Development Corporation

LOCAL DEVELOPMENT FINANCING ACT (LDFA)

The **Local Development Financing Act (LDFA)**, **Public Act 281 of 1986**, as amended, allows eligible entities to establish area boundaries, create and implement a development plan, acquire and dispose of interests in real and personal property, issue bonds and use tax increment financing to fund public infrastructure improvements for eligible property. The tool is designed to promote economic growth and job creation. Communities across Michigan have used this tool to support companies in manufacturing, agricultural processing, and high technology operations.

WHO IS ELIGIBLE TO ESTABLISH AN LDFA?

Any city, village or urban township, is eligible to create an LDFA district. In addition, any **next Michigan development corporation** is also eligible. A municipality may join with one or more municipalities in the same county to establish an additional authority only if in a certified technology park or certified alternative energy park. Definitions of urban townships can be found on the following page.

WHAT CAN AN LDFA DO?

- Study and analyze unemployment, underemployment, and joblessness and the impact of growth upon the authority district.
- Acquire, construct or improve a public facility or infrastructure.
- Create and implement long-range economic development plans that create jobs and promote economic growth.
- Make and enter into contracts.
- Incur costs necessary to the function of the board.
- Acquire, own, lease, convey, demolish, relocate, rehabilitate, improve, prepare or otherwise dispose of real or personal property. Collect revenues from these activities.
- Accept grants and donations of property, labor or other things of value from a public or private source.

HOW IS AN LDFA FINANCED?

The activities of the authority can be financed through one or more of the following sources:

- Tax increment revenues received following the completion of a tax increment financing plan.
- Proceeds of tax increment bonds.
- Proceeds of revenue bonds.
- Contributions to the authority for the performance of its functions.
- Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.
- Legislature appropriations for insufficient tax increment revenues.
- Loans from the Michigan Strategic Fund or the Michigan Economic Development Corporation.

WHAT TAXES ARE ELIGIBLE TO BE CAPTURED THROUGH TAX INCREMENT FINANCING REVENUE?

All tax increment capture must be described in the tax increment financing plan. Local taxes on real and personal property are eligible to be captured. The LDFA may request capture from other taxing jurisdictions. These taxing jurisdictions have the ability to opt out or share a portion of the captured assessed value. 50% of school taxes can be captured for a maximum of fifteen years. Certified Technology parks may capture an additional 5 years pursuant to additional requirements. The following taxes are unable to be captured: Debt millages; taxes being levied under the zoological authorities act or art institute authorities act; taxes already being captured by downtown development authority, tax increment finance authority, or brownfield redevelopment authority.

ELIGIBLE PROPERTY

Properties eligible for tax increment capture are structures, buildings, land improvements and other real property and equipment located within a district, whose primary use is either manufacturing, high technology, value added agricultural processing or energy production.

WHAT ACTIVITIES IN THE DEVELOPMENT PLAN ARE ELIGIBLE FOR FUNDING?

- Public infrastructure improvements that directly benefit the district, including a street, road, bridge, storm water or sanitary sewer, sewage treatment facility, water line, water tower, etc. Railroads and utility lines (electric and telecommunication are also eligible).
- Acquisition of land, demolition, site preparation and relocation costs.
- Certified alternative energy parks and certified technology park development.
- Administrative costs.

WHAT IS THE PROCESS TO ESTABLISH AN LDFA?

Note: The following steps are offered as general guidelines only. Legislation should be reviewed by local officials prior to starting the designation process.

1. The governing body of a municipality declares by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.
2. The governing body sets a public hearing, based upon its resolution of intent, to create a LDFA.
3. Notice must be given of a public hearing by publication and mail to taxpayers within a proposed district and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture of tax increment revenues.
4. Governing body takes comments at the public hearing.
5. Within 60 days, the governing body of another taxing jurisdiction may, by resolution, exempt its taxes from capture and file the resolution with the clerk of the municipality.
6. Not less than 60 days after the public hearing, the

municipality adopts a resolution establishing the LDFA and designating the boundaries of the district.

7. Resolution shall be filed with the Secretary of State and published once in the local newspaper.
8. The municipality appoints the members of the LDFA Board. The Board shall consist of seven members appointed by the governing body, one member appointed by the county commission, one member appointed by the community or junior college and two members appointed by each local government unit that levied 20% or more of the ad valorem taxes levied against all property located in the authority district in the year before the year in which the authority district is established. Additional members shall only vote on matters relating to the authority district located within their respective local unit of government.

Once the LDFA is established, the LDFA must create a development plan, to be adopted by the municipality, that outlines what the authority may do and what funds may be used. If the LDFA Board anticipates the need for capturing tax increment to support a project, a Tax Increment Financing Plan must also be adopted. Adoption of these plans also require public notices and hearings. Tax increment revenues can only be spent in accordance of the Tax Increment Financing Plan. The authority must submit an annual financial report to the governing body and state tax commission.

Land may be added or removed from a district pursuant to the same requirements prescribed for adopting the resolution creating the LDFA.

CONTACT INFORMATION

For more information, contact the Michigan Economic Development CorporationSM (MEDC) Customer Contact Center at 517.373.9808.

**Michigan Municipal League Economic
Development Tools**

Introduction

A Local Development Financing Authority (LDFA) allows the use of tax increment financing to fund public infrastructure improvements. It was created to replace the TIFA and to be more focused.

Authorizing legislation

1986 PA 281, MCL 125.2151, allows a city, village or urban township to create a Local Development Finance Authority (LDFA).

What is the purpose of the Act?

A LDFA is designed to promote economic growth and job creation, to provide a means for local units of government to eliminate the conditions of unemployment, underemployment, and joblessness and to promote economic growth.

How can this Act be used?

Communities across Michigan have utilized this tool to extend sewer and water lines and construct roads to service manufacturing, agricultural processing and high technology operations.

How is this Act different?

A project must be a public facility for the benefit of "eligible property" which means land improvements, buildings, structures and machinery, equipment, furniture and fixtures comprising an integrated whole located within a LDFA district of which the primary purpose is (i) manufacturing or processing of goods or materials, (ii) agricultural processing, (iii) high technology activity for research, product development engineering, laboratory testing or development of industrial technology, or (iv) production of energy. (MCL 125.2152(p))

A new Act was passed, PA 242 of 2010, providing for transit-oriented development and transit-oriented facilities in Local Development Financing Authorities and other economic development tools. "Transit-oriented development" means infrastructure improvements that are located within one-half mile of a transit station or transit-oriented facility that promotes transit ridership or passenger rail use. "Transit-oriented facility" means a facility that houses a transit station in a manner that promotes transit ridership or passenger rail use.

What are the financing options?

- Tax increment revenues from eligible properties
- Contributions from the local unit of government
- Revenues from ownership of property
- Proceeds of revenue bonds
- Loans from the Michigan Strategic Fund or Michigan Economic Development Corporation

Establishing a LDFA

Note: The following steps are offered as general guidelines only. A municipality should consult with an attorney prior to initiating the process creating a LDFA.

1. The municipality initiates the establishment of a LDFA by the adoption of a resolution of intent.
2. The resolution shall set a date for a public hearing on the adoption of a proposed ordinance creating the authority.
3. Notice must then be given of a public hearing by publication and mail to taxpayers within a proposed district and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture for tax increment revenues.
4. At the public hearing, taxpayers must be heard regarding the creation of the LDFA.
5. Within 60 days, the governing body of another taxing jurisdiction may, by resolution, exempt its taxes from capture, and file the resolution with the clerk of the municipality.
6. Not less than 60 days after hearing, the municipality adopts resolution establishing LDFA and designating the boundaries of one or more districts.
7. Resolution shall be filed with the Secretary of State promptly and published once in a local newspaper.
8. Land may be added to or deleted from a district pursuant to the same requirements prescribed for adopting the resolution creating the LDFA.
9. The municipality appoints the members to the LDFA board.

Reporting requirements

An annual report must be submitted to the municipality and to the state tax commission on the status of the tax increment financing plan.

Provisions of the Local Development Finance Authority Act

- Authorizes a city, village or urban township to create a LDFA by resolution after providing notice and holding a public hearing. The local unit shall also designate the development area boundaries by the resolution.
- Provides for the supervision and control of an authority by a board appointed by the chief executive officer of the local unit. Also provides for representation by the county, junior or community college district and for any other local unit levied more than 20 percent of the total property tax levied in the district the year prior to its formation.
- Allows a board to hire a director to serve as chief executive officer of the authority, subject to the approval of the governing body of the city, village or urban township and other personnel as it feels necessary.
- Allows an authority to prepare and submit to the governing body a tax increment financing plan, which shall include a development plan for the authority's development area. TIF plans and development plans are subject to public hearings and affected local taxing jurisdictions must be notified.
- Provides for the financing of authority activities, including borrowing money and issuing bonds. The authority can issue negotiable revenue bonds under the Revenue Bond Act and can, with local unit approval, issue revenue bonds or notes to finance all or part of the costs.
- Allows an authority to authorize, issue and sell bonds to finance a TIF plan's development program. A city, village or urban township may make a limited tax pledge to support the authority's TIF bonds or notes with governing body approval but needs voter approval to pledge its unlimited full faith and credit for authority bonds or notes.

- Allows the governing body, at the request of the LDFA board, from time to time to amend either the development or TIF plans. It may also amend the district boundaries of the LDFA district. However, caution should be taken in amending the boundaries as the other taxing units (county, schools, etc.) may opt out.

Local Development Financing Authority board powers:

- Study and analyze unemployment, underemployment, and joblessness and the impact of growth upon the authority district or districts.
- Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility.
- Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, to promote the growth of the authority district or districts, and take the steps that are necessary to implement the plans to the fullest extent possible to create jobs, and promote economic growth.
- Implement any plan of development necessary to achieve the purposes of this act in accordance with the powers of the authority as granted by this act.
- Make and enter into contracts necessary or incidental to the exercise of the board's powers and the performance of its duties.
- Acquire by purchase or otherwise on terms and conditions and in a manner the authority considers proper, own or lease as lessor or lessee, convey, demolish, relocate, rehabilitate, or otherwise dispose of real or personal property, or rights or interests in that property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to the property.
- Improve land, prepare sites for buildings, including the demolition of existing structures, and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, or operate a building, and any necessary or desirable appurtenances to a building, for the use, in whole or in part, of a public or private person or corporation, or a combination thereof.
- Fix, charge, and collect fees, rents, and charges for the use of a building or property or a part of a building or property under the board's control, or a facility in the building or on the property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.
- Lease a building or property or part of a building or property under the board's control.
- Accept grants and donations of property, labor, or other things of value from a public or private source.
- Acquire and construct public facilities.
- Incur costs in connection with the performance of the board's authorized functions including, but not limited to, administrative costs, and architects, engineers, legal, and accounting fees.
- Plan, propose, and implement an improvement to a public facility on eligible property to comply with the barrier free design requirements of the state construction code promulgated under the state construction code (MCL 125.1501).

State Notes

TOPICS OF LEGISLATIVE INTEREST

Winter 2016



Tax Increment Financing in Michigan By Drew Krogulecki, Legislative Analyst

Tax increment financing (TIF) has been described as "the first tool that local governments pull out of their economic development toolbox".¹ It is a method that many communities use to finance different projects for commercial development, neighborhood revitalization, or other economic development purposes. Although TIF can be complicated and could be examined from a number of different perspectives (such as economic, policy, or organizational), this article explains briefly what tax increment financing is and how it works; the history of TIF and its evolution; the different types of TIF plans in Michigan and how they are used; and the number of TIF authorities in Michigan. The article also discusses topics addressed by recently proposed legislation.

How TIF Works

Tax increment financing allows an established TIF authority to "capture" property tax revenue from incremental increases in value in a determined area and spend the "tax increment revenue", or a percentage of the total increased collections, to develop the area or finance a specific project. In other words, the value of any improvements to property located in a designated TIF district does not go into the overall tax base of the community, but instead is reserved for, or "captured" by, the TIF district.

In Michigan statutes that authorize TIF, the decision to develop a TIF plan rests with a municipality. A municipality is given the authority both to create a TIF authority and designate the district where the TIF plan will be applied. The district does not necessarily have a limit in regard to its size, so districts range from relatively small to rather large. The assessed valuation of the property in the TIF district that is determined when a TIF plan is being implemented is called the "base value". The base value is used to measure increases in property taxable value over time. The taxable value of property can increase due to such events as a sale or transfer of ownership, major renovations or changes to the property itself, or inflation.

Residents in a newly created TIF district will continue to pay their taxes as they normally do and will not see any change in the amount they pay compared to the amount they would pay absent the TIF district. Local governments and authorities also continue to receive a share of local property taxes from taxpayers as they normally would. However, any increase in revenue attributable to an increase in assessed property values from the base value going forward is captured by the TIF authority. The increase in valuation is multiplied by the applicable tax rate, and the result is considered the tax increment revenue available for use by the authority.² The revenue may be used to pay for development projects in the district or used to secure bond issues for large public expenditures. A development project could be, for example, new infrastructure, including roads or bridges; new street lamps; the improvement, creation, or demolition of buildings; a new shopping center or stadium; parks; or water treatment facilities. The municipality and TIF authority ultimately determine how the tax increment revenue will be spent.

¹ James Krohe, Jr, *At the Tipping Point: Has Tax Increment Financing Become Too Much of a Good Thing?*, Planning 20, 21 (Mar 2007).

² The taxes that a TIF authority may capture depend on the statute under which the TIF authority is created. For example, when a downtown development authority is created, the State Education Tax is subject to capture under certain circumstances.



Theoretically, the captured revenue should be sufficient to pay the TIF authority's share of project costs. Once the authority receives tax increment revenue, it will spend that revenue to retire debt issued to finance projects or improve the district. The improvements and TIF spending should attract private investment to further develop the district. The district should then see an increase in assessed property values because of the improvements, generating more tax increment revenue to pay for public expenditures. The TIF plan, therefore, ideally will pay for itself while spurring development and private investment until it expires. The reality may be different, however, when property values decline due to economic downturns or other circumstances, or if the development does not generate the anticipated economic activity.

History and Evolution of TIF Use

The practice of tax increment financing started in California in 1952 for the purpose of financing the local share required by a Federal urban renewal program.³ The program required municipalities with populations greater than 50,000 to finance a portion of the cost of Federal redevelopment activities, which TIF assisted California in providing. Many TIF plans were originally created to address blight in certain geographic areas; the financing method was considered a tool for redevelopment.⁴ Around 1970, there were only 76 TIF authorities in California, while only six other states had implemented TIF plans. Those states were Minnesota, Nevada, Ohio, Oregon, Washington, and Wyoming. Michigan's first TIF statute was created with the enactment of Public Act 197 of 1975, which provides for downtown development authorities.

Following the withdrawal of Federal funding from the urban renewal program, among other factors, TIF use rapidly evolved from a redevelopment tool to a *development* tool.⁵ In the 1980s, many states redefined "blight" or added provisions to statutes allowing municipalities to create TIF districts for general economic development.⁶ The use of TIF increased exponentially, and municipalities were now using TIF plans to finance local development. One study confirmed this using Michigan data from the 1980s.⁷ The author of the study concluded that TIF was used more often by rapidly growing cities to fund economic development projects, a departure from the former and more reserved use of TIF for combatting blight. Every state has allowed some form of TIF since the method was first introduced.

TIFs in Michigan

Michigan statutes specifically outline how, and for what purposes, tax increment financing may be implemented. As shown in [Table 1](#), there are 10 different acts that provide for the use of tax increment financing.

³ Johnathan M. Davidson, *Tax Increment Financing as a Tool for Community Redevelopment*, 56 U. Det. J. Urb. L. 405, 1978-1979.

⁴ Richard Briffault, *The Most Popular Tool: Tax Increment Financing and the Political Economy of Local Government*, U. of Chi. Law Review, 77:62, 2010.

⁵ Briffault, n. 4. James Krohe Jr. reiterates a similar point in his writing.

⁶ Krohe, Jr. n. 1.

⁷ John E. Anderson, *Tax Increment Financing: Municipal Adoption and Growth*, National Tax Journal, Vol. 42, no. 2, (June, 1990).



Table 1

TIF Statutes in Michigan		
Public Act	Statute or Amendment	Purpose of TIF
197 of 1975	Downtown Development Authority Act	Central business district improvement
450 of 1980 ^{a)}	Tax Increment Finance Authority Act	Economic growth and increase in property values in a municipality
281 of 1986	Local Development Financing Act	Job creation & unemployment reduction
381 of 1996	Brownfield Redevelopment Financing Act	Redevelopment of unused buildings or blighted areas
280 of 2005	Corridor Improvement Authority Act	Redevelopment of commercial corridors
94 of 2008	Water Resource Improvement Tax Increment Finance Authority Act	Water resource improvement
486 of 2008	Nonprofit Street Railway Act amendment	Promotion & financing of operations in a transit operations finance zone for a street railway system
250 of 2010	Private Investment Infrastructure Funding Act	Economic development & public infrastructure improvement
530 of 2004	Historical Neighborhood Tax Increment Finance Authority Act	Preservation of residential property values in a historic district
61 of 2007	Neighborhood Improvement Authority Act	Promotion of residential growth in a residential neighborhood
^{a)} Public Act 280 of 1986 amended the Tax Increment Finance Authority Act to prevent a municipality from creating a new authority under that Act beginning January 1, 1987.		

In addition to prescribing the general structure of capturing tax increment revenue, most of the acts listed in the table have two common provisions of note. The first is a requirement for a public hearing when a TIF plan and authority are created. Many of the acts have very specific requirements for conducting the hearing, such as providing notice between 20 and 40 days before the hearing will occur in a newspaper that is generally circulated within the municipality, in addition to mailing notice to each affected taxpayer in the proposed district.

The other provision found in almost every act listed in Table 1 allows a municipality to establish a TIF plan for the broad purpose of promoting economic growth, in addition to any specific purpose listed in the individual act. This provision is significant because it gives a municipality freedom and flexibility to determine a use for tax increment revenue as long as it falls under that purpose of "economic growth".

Tax increment financing plans are attractive to municipalities in part because they generate funds for economic development without the need to levy new taxes, provide funding for development projects, and offer the possibility of increased revenue in the future from an expanded tax base. However, apart from the public hearing and resulting developments, TIF plans may be somewhat obscure to taxpayers.

Table 2 displays the total number of TIF plans in Michigan by calendar year, and the number of plans reported to the State in each calendar year. (Because reporting and documentation issues exist, all TIF data in Table 2 should be considered approximate.) The data include only downtown development authorities, TIF authorities, local development finance authorities, and corridor improvement authorities. While the total number of plans may have increased over time, reporting



remains sporadic. Statutes authorizing TIF plans require reporting to the State, but there is often no enforcement or penalty for noncompliance.

Table 2

TIF Authorities in Michigan		
Calendar Year	Number of Plans	Number of Plans Reporting
2002	618	94
2003	616	104
2004	626	152
2005	625	150
2006	626	175
2007	626	143
2008	629	101
2009	631	49
2010	630	78
2011	632	88
2012	632	83
2013	634	94

Source: Michigan Department of Treasury

Although the data are not necessarily complete, they should provide some perspective on the common use of TIF plans in Michigan. To present a comparison, the City of Chicago alone had 150 TIF districts in 2014, according to audit reports for each TIF district found on the city's website.

Recent Legislation, Competing Districts, and Legality

Senate Bills 579 and 619 through 624, introduced in 2015, demonstrate a conflict that TIF plans can create between governmental units and authorities receiving taxpayer dollars.⁸ Although property taxes are used to fund local units of governments, TIF plans require a certain amount of property tax revenue to be set aside for the TIF authority and its projects. Therefore, TIF plans effectively redirect money from other local governments and local tax collecting authorities.⁹ The bills listed above respond to concerns that Michigan public libraries are losing a sizable portion of their revenue to TIF districts that are capturing dollars that the libraries otherwise would receive.

Specifically, the bills would amend various TIF statutes to exempt libraries from TIF capture and give libraries the choice to opt-in to a capture. Many TIF acts already allow the governing body of a taxing jurisdiction levying property taxes that otherwise would be subject to capture to opt-out of

⁸ A Senate Fiscal Agency analysis of the bills can be found at the following site: <http://legislature.mi.gov/documents/2015-2016/billanalysis/Senate/pdf/2015-SFA-0579-A.pdf>

⁹ In 2011, California enacted legislation to prohibit TIF authorities, or "redevelopment agencies", from engaging in new business and to provide for their dissolution. The bill was introduced because the agencies had, over time, captured a large amount of money that certain public institutions otherwise would have received. The California Supreme Court upheld the bill (*Cal. Redevelopment Assoc. v. Matosantos*, 53 Cal. 4th 231, 2011). Currently, a city in California has limited TIF authority under Enhanced Infrastructure Financing Districts legislation that was enacted in 2014.



new tax captures.¹⁰ Libraries, however, remain subject to captures under the few statutes that do not have opt-out provisions. Although the bills would remedy the situation for libraries, they would not affect any other governmental units or tax collecting authorities still subject to statutes that do not contain opt-out provisions.

The legality of tax increment financing has been questioned because it can take funding away from local governments and tax collecting authorities that receive a share of taxpayer dollars. The Michigan Supreme Court issued an Advisory Opinion in 1988 when TIF planning was challenged based on the diversion of school tax funds toward a nonschool purpose, allegedly in violation of Article IX, Section 6 of the Michigan Constitution (430 Mich 93). The Court found that TIF plans only capture tax revenue attributable to increased value that is assumed to result from the TIF plan itself, therefore not diverting from school districts or other tax collecting units revenue they would receive absent the existence of a TIF plan. Even though the Advisory Opinion remarked on the constitutionality of a single local development finance authority, the analysis could be helpful in establishing the constitutionality, or potential constitutional limitations, of other TIF plans.¹¹

Conclusion

Tax increment financing is an important economic development tool that has been used by many municipalities throughout the country for decades. Michigan municipalities are no exception, as data show the common use of TIF plans for local development and economic growth. The recently proposed legislation described above, however, signals that there is remaining controversy on the topic. In addition to the issue that prompted the legislation -- the diversion of tax revenue that local units otherwise would receive, the use of tax increment financing is criticized when property values decline and a TIF authority might not have the anticipated revenue to make bond payments. Furthermore, any future deliberation on property tax reform would likely affect established TIF authorities, requiring additional consideration in the determination of those new tax policies. It would not be surprising to see more discussion of tax increment financing well into the future.

¹⁰ Usually the governing body must opt-out of the capture within 60 days following the conclusion of the public hearing. Some acts specify tax collecting authorities that may not opt-out. For example, a "certified energy park" may not opt-out of tax capture from an authority created under the Local Development Financing Act.

¹¹ Laura M. Bassett, *Tax Increment Financing as a Tool for Redevelopment: Attracting Private Investment to Serve a Public Purpose*, *The Urban Lawyer*, 41.4, Fall 2009.

Robert's Rules of Order Cheat Sheet

ROBERTS RULES CHEAT SHEET

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority
Recess	"I move that we recess until..."	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of something	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question"	No	Yes	No	No	2/3
Postpone consideration of something	"I move we postpone this matter until..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by..."	No	Yes	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that..."	No	Yes	Yes	Yes	Majority

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Ask for vote by actual count to verify voice vote	"I call for a division of the house"	Must be done before new motion	No	No	No	None unless someone objects
Object to considering some undiplomatic or improper matter	"I object to consideration of this question"	Yes	No	No	No	2/3
Take up matter previously tabled	"I move we take from the table..."	Yes	Yes	No	No	Majority
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	Yes	Yes	Only if original motion was debatable	No	Majority
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	No	Yes	No	No	2/3
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).

PROCEDURE FOR HANDLING A MAIN MOTION

NOTE: Nothing goes to discussion without a motion being on the floor.

Obtaining and assigning the floor

A member raises hand when no one else has the floor

- The chair recognizes the member by name

How the Motion is Brought Before the Assembly

- The member makes the motion: *I move that (or "to") ...* and resumes his seat.
- Another member seconds the motion; *I second the motion* or *I second it* or *second*.
- The chair states the motion: *It is moved and seconded that ... Are you ready for the question?*

Consideration of the Motion

1. Members can debate the motion.
2. Before speaking in debate, members obtain the floor.
3. The maker of the motion has first right to the floor if he claims it properly
4. Debate must be confined to the merits of the motion.
5. Debate can be closed only by order of the assembly (2/3 vote) or by the chair if no one seeks the floor for further debate.

The chair puts the motion to a vote

1. The chair asks: *Are you ready for the question?* If no one rises to claim the floor, the chair proceeds to take the vote.
2. The chair says: *The question is on the adoption of the motion that ... As many as are in favor, say 'Aye'.* (Pause for response.) *Those opposed, say 'Nay'.* (Pause for response.) *Those abstained please say 'Aye'.*

The chair announces the result of the vote.

1. *The ayes have it, the motion carries, and ...* (indicating the effect of the vote) or
2. *The nays have it and the motion fails*

WHEN DEBATING YOUR MOTIONS

1. Listen to the other side
2. Focus on issues, not personalities
3. Avoid questioning motives
4. Be polite

HOW TO ACCOMPLISH WHAT YOU WANT TO DO IN MEETINGS

MAIN MOTION

You want to propose a new idea or action for the group.

- After recognition, make a main motion.
- Member: "Madame Chairman, I move that _____."

AMENDING A MOTION

You want to change some of the wording that is being discussed.

- After recognition, "Madame Chairman, I move that the motion be amended by adding the following words _____."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words _____."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words, _____, and adding in their place the following words _____."

REFER TO A COMMITTEE

You feel that an idea or proposal being discussed needs more study and investigation.

- After recognition, "Madame Chairman, I move that the question be referred to a committee made up of members Smith, Jones and Brown."

POSTPONE DEFINITELY

You want the membership to have more time to consider the question under discussion and you want to postpone it to a definite time or day, and have it come up for further consideration.

- After recognition, "Madame Chairman, I move to postpone the question until _____."

PREVIOUS QUESTION

You think discussion has gone on for too long and you want to stop discussion and vote.

- After recognition, "Madam President, I move the previous question."

LIMIT DEBATE

You think discussion is getting long, but you want to give a reasonable length of time for consideration of the question.

- After recognition, "Madam President, I move to limit discussion to two minutes per speaker."

POSTPONE INDEFINITELY

You want to kill a motion that is being discussed.

- After recognition, "Madam Moderator, I move to postpone the question indefinitely."

POSTPONE INDEFINITELY

You are against a motion just proposed and want to learn who is for and who is against the motion.

- After recognition, "Madame President, I move to postpone the motion indefinitely."

RECESS

You want to take a break for a while.

- After recognition, "Madame Moderator, I move to recess for ten minutes."

ADJOURNMENT

You want the meeting to end.

- After recognition, "Madame Chairman, I move to adjourn."

PERMISSION TO WITHDRAW A MOTION

You have made a motion and after discussion, are sorry you made it.

- After recognition, "Madam President, I ask permission to withdraw my motion."

CALL FOR ORDERS OF THE DAY

At the beginning of the meeting, the agenda was adopted. The chairman is not following the order of the approved agenda.

- Without recognition, "Call for orders of the day."

SUSPENDING THE RULES

The agenda has been approved and as the meeting progressed, it became obvious that an item you are interested in will not come up before adjournment.

- After recognition, "Madam Chairman, I move to suspend the rules and move item 5 to position 2."

POINT OF PERSONAL PRIVILEGE

The noise outside the meeting has become so great that you are having trouble hearing.

- Without recognition, "Point of personal privilege."
- Chairman: "State your point."
- Member: "There is too much noise, I can't hear."

COMMITTEE OF THE WHOLE

You are going to propose a question that is likely to be controversial and you feel that some of the members will try to kill it by various maneuvers. Also you want to keep out visitors and the press.

- After recognition, "Madame Chairman, I move that we go into a committee of the whole."

POINT OF ORDER

It is obvious that the meeting is not following proper rules.

- Without recognition, "I rise to a point of order," or "Point of order."

POINT OF INFORMATION

You are wondering about some of the facts under discussion, such as the balance in the treasury when expenditures are being discussed.

- Without recognition, "Point of information."

POINT OF PARLIAMENTARY INQUIRY

You are confused about some of the parliamentary rules.

- Without recognition, "Point of parliamentary inquiry."

APPEAL FROM THE DECISION OF THE CHAIR

Without recognition, "I appeal from the decision of the chair."

Rule Classification and Requirements

Class of Rule	Requirements to Adopt	Requirements to Suspend
Charter	Adopted by majority vote or as proved by law or governing authority	Cannot be suspended
Bylaws	Adopted by membership	Cannot be suspended
Special Rules of Order	Previous notice & 2/3 vote, or a majority of entire membership	2/3 Vote
Standing Rules	Majority vote	Can be suspended for session by majority vote during a meeting
Modified Roberts Rules of Order	Adopted in bylaws	2/3 vote

Parliamentary Procedure

PARLIAMENTARY PROCEDURES GUIDE

THE NUMBER ONE RULE: BE PREPARED

The leader or presiding officer should be well prepared before the meeting.

HE/SHE SHOULD:

1. Draft an agenda—a list of matters to be discussed in the order in which they will be discussed.

Note: Sending the agenda to the members prior to the meeting is not only an invitation but also a way of motivating them to come to the meeting. Avoid having the same agenda every meeting. Make your agenda attractive.

2. Know in advance what to expect from reports, and be sure that everyone who is going to deliver a report is well prepared.
3. Arrange for the meeting place, and be certain it is set up to enable you or the speaker to see all of those present so that no one is ignored in the discussion.

The presiding officer should have outlined—at least in his own mind, if not on paper—the general direction and purpose of each item of business on the agenda. Sometimes he will expect perfunctory approval (as to the minutes of the prior meeting), and sometimes he may expect a prolonged discussion (as to a budget for the year's expenses); but he should always have an idea to guide him, even though on many occasions the meeting will differ from the plan.

Being prepared, however, will permit him to guide the group rather than permit it to drift aimlessly. Thus he may help to increase the respect of those present not only for the protection of parliamentary law and democratic processes but also for their efficiency and practicability.

Members, too, should prepare. Those who are to make reports should know what they will say. The report should be concluded with a motion or statement on what new action should be taken.

Those who introduce something new should prepare a motion and should organize their thinking in advance so that they can adequately explain what they propose and why.

ORDER OF BUSINESS:

1. Opening of meeting. (Call to Order)
2. Approval (and reading if not distributed) of minutes of the previous meeting
3. Reports of board members and standing committees
4. Reports of special committees
5. Special orders*
6. Unfinished business and general orders**
7. New business
8. Closing of meeting. (Adjournment)

* Special orders: Important business, which the group has previously agreed to take up at this specific time

** General orders: Matters postponed from previous meetings and set for this meeting

CONDUCTING THE MEETING

At the exact hour named in the notice of the meeting, the presiding officer should call the meeting to order. He should determine that enough members (a quorum) are present to do business, in case decisions have to be made. A quorum is usually a majority (more than half) of the committee, a convention or group, unless the group provides otherwise in its rules.

For a very large group, a smaller number should be set by the by-laws or constitution, as it may be difficult to secure a necessary majority at the meeting. In no case should the meeting proceed without the quorum. This requirement is designed to insure the group that its decisions will not be made by an unrepresentative minority.

The next business should be the approval, as read or as amended by the group, of the minutes of the previous meeting. This enables those present to know what has already been done so time is not wasted in repetition.

If this is the first meeting, the presiding officer should explain the reason for the meeting and then have the group adopt a set of parliamentary rules for orderly procedure, name its temporary officers, and proceed with the business.

SPEAKING

Speaking is accomplished by obtaining the floor. One should rise and address the presiding officer. The one who should be recognized is the person who rises first after the previous speaker has yielded the floor. It is discourteous to raise your hand or stand while another has the floor, and such a person does not, therefore, get the right to the floor next.

If more than one person properly requests the floor when debate is on, certain rules apply: (1) The maker of the motion is first even though the last to rise---in order that he can explain his motion. (2) No one gets a second chance until everyone has had one chance to speak, and (3) the chairman should try to alternate speakers among all sides of an issue.

Speaking:

....Is not usually in order until the presiding officer indicates who is entitled to speak. Once recognized, the speaker should first give his name, and, if in a representative group, he should state whom he represents.

....Follows the making of a motion. If a report is presented, its reading precedes a motion. Following the motion, the reader of the report has the first opportunity to speak.

....Is limited to give everyone an opportunity. The group can impose more or less restrictive rules. *Robert's Rules of Order* gives each person only two 10-minute opportunities to speak.

....Can be stopped altogether by a motion. But this motion requires a two-thirds majority of those voting, so that a bare majority cannot prevent discussion and a minority can be heard.

THE MOTION...

The motion is the means whereby the group takes action. It is a statement of what is to be done and how it is to be accomplished. It should be carefully worded to prevent misunderstandings. The wording should clearly channel discussion to the important aspects of the proposal.

The motion is made by stating, "I move that the.. (name of group). . (add what is to be done, by whom, when, how financed, etc.)."

Normally, it should be seconded. This means the seconding party believes the motion should be discussed. On occasions, the purpose of a seconder is to insure that the matter is at least of sufficient interest to be presented to the group, and thus the seconder prevents one man from wasting the group 5 time.

It is done be merely stating, without rising, "I second the motion." if, however, the type of minutes kept by the group requires the seconder's name to appear in the record, he should stand to facilitate recognition.

Parliamentary law is designed to insure that the group considers only one motion at a time. This prevents confusion and speeds action, and it is the presiding officer's duty to remind the group constantly which action is the main topic.

However, the requirements of getting a job done and preventing a small but vociferous minority from keeping a group in session or wasting time on inconsequential matters demand that certain motions receive precedence. These have specific objectives, which deserve early consideration by the group and are listed in order in the Chart on Parliamentary Motions, page 5.

When these motions are made, they immediately become the pending problem of the group and must be decided first. It is important to remember that only the motion with precedence is then before the group, even though any number of subsidiary, incidental, or privileged motions are, so to speak, on the floor.

Confusion will not result if the presiding officer keeps the group well informed and explains what has happened, what is happening, and what will happen next.

TYPES OF MOTIONS

The use of parliamentary forms over a period of time has resulted in the establishment of certain terminology which itself has specific parliamentary meanings. The terms often vary as to the group using them.

LAY ON THE TABLE: A motion to delay, to an indefinite time, consideration of a main motion by taking it figuratively from the floor, where action can be taken, and laying it on the table, where action cannot be taken. This helps to allow more time to consider the problem, yet does not set a definite time for reconsideration.

A majority of voters who tabled the motion can later figuratively take the motion from the table (Take from Table) and put it on the floor for discussion. When this is done, the motion comes back to the floor in the same condition as it went on the table, i.e., with the same wording.

MAIN MOTION: A motion to accomplish a part of the business of a group. Examples are to adopt a project, approve a budget or report, create a committee, approve an appointment, etc. All other motions are, in a way, procedural, while the main motion gets the work done. This is true, even though some other motions, like a motion to adjourn, are at times technically considered main motions.

SUBSIDIARY MOTIONS: A motion generally designed to facilitate action on a main motion—a motion subsidiary to the main motion. Examples include motions to debate, amend, refer to committee, lay on the table, etc.

INCIDENTAL MOTIONS: These motions are incidental to the consideration of business and accomplish certain parliamentary purposes. Examples are questions of order and appeal, suspension of the rules, objection to consideration of a question, etc.

PRIVILEGED MOTIONS: A motion is privileged in the sense that with it, at certain times, goes the distinction of an immediate -- or at least an earlier -- decision in regard to the subject matter to which it relates, rather than to the subject matter of another motion which may have been on the floor.

The Chart on Parliamentary Motions (next page) lists the privileged motions in the order of their precedence. Examples are motions to fix the time to adjourn, or to take a recess

Motions Made by an Administrative Board

Motions Made by an Administrative board

The motion to approve, deny, or approve with conditions should state the conclusion, and rationale for the conclusion. That is, it should state how the facts support the conclusion that was reached. It is ok to vote on a set of findings of fact before a vote to approve, deny, or approve with conditions.

Remember, the decision may have to withstand scrutiny by a court, and should be carefully prepared. Be sure that conditions are detailed so the zoning administrator knows what is expected. Minutes need to include relevant information, including finding of facts, a motion, and discussion related to the motion.

Drafting Motions

- State the conclusion
- Rationale for conclusion indicating facts
- Description of the nature of the request
- Action Taken
- Conditions attached
- Reasons for action taken
- Phrase motions carefully to withstand scrutiny by a court
- Ensure everyone is clear on the motion

The Chair's Role in Motions

- Restate the Motion Clearly
- Be sure the motion has been seconded when necessary; without a second the motion should be rejected
- State motion before discussion
- Allow maker of the motion the first chance to discuss it
- Do not allow people to speak twice until all have had a chance to speak
- Direct all comments to avoid debates

Findings of fact

Findings are nothing more than a statement by the commission for the evidence and reasoning it used to arrive at a decision. Findings are important in helping the public and the applicant understand the Commission's conclusion and reason for granting or denying the application. Findings shall be based on the regulations, plans and evidence and should be clear and concise. Findings of fact should be presented as part of the motion to support the motion whether the

motion is for approval or denial. A common reason that courts overrule commission decisions is that the commission failed to prepare findings to support their decision.

Conditions

Conditions may be approved providing:

- They are designed to protect natural resources; the health, safety, and welfare; and, the social and economic wellbeing of people.
- They are a valid exercise of police power.
- They are necessary to meet the intent and purpose of the zoning ordinance, are related to the standards established in the ordinance for land use activity under consideration, and are necessary to insure compliance with those standards.

The last point is especially pertinent. It is not appropriate to impose conditions unrelated to specific ordinance requirements.

LDFA Act

THE LOCAL DEVELOPMENT FINANCING ACT
Act 281 of 1986

AN ACT to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing.

History: 1986, Act 281, Eff. Feb. 1, 1987;^[1]Am. 1993, Act 333, Eff. Mar. 15, 1994;^[2]Am. 2000, Act 248, Imd. Eff. June 29, 2000.

The People of the State of Michigan enact:

125.2151 Legislative findings; short title.

Sec. 1. (1) The legislature finds all of the following:

(a) That there exists in this state conditions of unemployment, underemployment, and joblessness detrimental to the state economy and the economic growth of the state economy.

(b) That government programs are desirable and necessary to eliminate the causes of unemployment, underemployment, and joblessness therefore benefitting the economic growth of the state.

(c) That it is appropriate to finance these government programs by means available to the state and local units of government, including tax increment financing.

(d) That tax increment financing is a government financing program which contributes to economic growth and development by dedicating a portion of the tax base resulting from the economic growth and development to certain public facilities and structures or improvements of the type designed and dedicated to public use and thereby facilitate certain projects which create economic growth and development.

(e) That it is necessary for the legislature to exercise the sovereign power to legislate tax increment financing as authorized in this act and in the exercise of this sovereign power to mandate the transfer of tax increment revenues by city, village, township, school district, and county treasurers to authorities created under this act in order to effectuate the legislated government programs to eliminate the conditions of unemployment, underemployment, and joblessness and to promote state economic growth.

(f) That the creation of jobs and the promotion of economic growth in the state are essential governmental functions and constitute essential public purposes.

(g) That the creation of jobs and the promotion of economic growth stabilize and strengthen the tax bases upon which local units of government rely and that government programs to eliminate causes of unemployment, underemployment, and joblessness benefit local units of government and are for the use of those local units of government.

(h) That the provisions of this act are enacted to provide a means for local units of government to eliminate the conditions of unemployment, underemployment, and joblessness and to promote economic growth in the communities served by these local units of government.

(2) This act shall be known and may be cited as "the local development financing act".

History: 1986, Act 281, Eff. Feb. 1, 1987.

Constitutionality: The capture of tax increment revenue by a local development finance authority and the use of the revenues by the authority for purposes authorized by the Local Development Financing Act are not unconstitutional diversions of tax revenues from the taxing entity or unconstitutional lendings of credit by the state or a municipality. Advisory Opinion on 1986 PA 281, 430 Mich 93; 422 NW2d 186 (1988).

125.2152 Definitions.

Sec. 2. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

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

(i) The storage, generation, reformation, or distribution of clean fuels integrated within an alternative

energy system or alternative energy vehicle, not including an anaerobic digester energy system or a hydroelectric energy system, for use within the alternative energy system or alternative energy vehicle.

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

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

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

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

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

(c) "Alternative energy technology business" means a business engaged in the research, development, or manufacturing of alternative energy technology or a business located in an authority district that includes a military installation that was operated by the United States Department of Defense and closed after 1980.

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, a certified alternative energy park, or a Next Michigan development area, the real and personal property included in the tax increment financing plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined pursuant to subdivision (hh), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value. Except as otherwise provided in this act, tax abated property in a renaissance zone as defined under section 3 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2683, shall be excluded from the calculation of captured assessed value to the extent that the property is exempt from ad valorem property taxes or specific local taxes.

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

(l) "Certified business park" means a business development area that has been designated by the Michigan economic development corporation as meeting criteria established by the Michigan economic development corporation. The criteria shall establish standards for business development areas including, but not limited to, use, types of building materials, landscaping, setbacks, parking, storage areas, and management.

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

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

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

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

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

(r) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on

behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

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

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

(ii) Agricultural processing.

(iii) A high technology activity.

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

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

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

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

(v) A business incubator.

(vi) An alternative energy technology business.

(vii) A transit-oriented facility.

(viii) A transit-oriented development.

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

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

(u) "Governing body" means, except as otherwise provided in this subdivision, the elected body having legislative powers of a municipality creating an authority under this act. For a Next Michigan development corporation, governing body means the executive committee of the Next Michigan development corporation, unless otherwise provided in the interlocal agreement or articles of incorporation creating the Next Michigan development corporation or the governing body of an eligible urban entity or its designee as provided in the Next Michigan development act, 2010 PA 275, MCL 125.2951 to 125.2959.

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

(w) "Initial assessed value" means the assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, a certified alternative energy park, or a Next Michigan development area, the assessed value of any real and personal property included in the tax increment financing plan, at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, for property that becomes eligible property in other than a certified technology park or a certified alternative energy park after the date the plan is approved, at the time the property becomes eligible property. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in subdivision (hh).

(x) "Michigan economic development corporation" means the public body corporate created under section

28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan economic development corporation is unable for any reason to perform its duties under this act, those duties may be exercised by the Michigan strategic fund.

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

(z) "Municipality" means a city, village, or urban township. However, for purposes of creating and operating a certified alternative energy park or a certified technology park, municipality includes townships that are not urban townships.

(aa) "Next Michigan development area" means a portion of an authority district designated by a Next Michigan development corporation under section 12e to which a development plan is applicable.

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

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

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

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

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

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

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

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

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

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

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

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

(ee) "Other protected obligation" means:

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

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

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

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

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

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

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

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

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

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

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

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

(C) Costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that, if privately owned, would be eligible for depreciation under the internal revenue code of 1986 for facilities that are or that will support eligible property under subdivision (s)(vi), that have been or will be owned by a public entity at the time such costs are incurred, that are located within a certified alternative energy park, and that have been or will be conveyed, by gift or sale, by such public entity to an alternative energy technology business.

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

(gg) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the refunding obligation meets both of the following:

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

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

(hh) "Specific local taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA 189, MCL 211.181 to 211.182, and the technology park development act, 1984 PA 385, MCL 207.551 to 207.572.

207.701 to 207.718. The initial assessed value or current assessed value of property subject to a specific local tax is the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

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

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

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

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

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

(B) To fund or to repay an advance or obligation issued by or on behalf of an authority to fund the cost of public facilities related to or for the benefit of eligible property located within a certified technology park or a certified alternative energy park to the extent the public facilities have been included in an agreement under section 12a(3), 12b, or 12c(3), not to exceed 50%, as determined by the state treasurer, of the amounts levied by the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and intermediate school districts for a period, except as otherwise provided in this sub-subparagraph, not to exceed 15 years, as determined by the state treasurer, if the state treasurer determines that the capture under this sub-subparagraph is necessary to reduce unemployment, promote economic growth, and increase capital investment in the municipality. However, upon approval of the state treasurer and the president of the Michigan economic development corporation, a certified technology park may capture under this sub-subparagraph for an additional period of 5 years if the authority agrees to additional reporting requirements and modifies its tax increment financing plan to include regional collaboration as determined by the state treasurer and the president of the Michigan economic development corporation. In addition, upon approval of the state treasurer and the president of the Michigan economic development corporation, if a municipality that has created a certified technology park that has entered into an agreement with another authority that does not contain a certified technology park to designate a distinct geographic area under section 12b, that authority that has created the certified technology park and the associated distinct geographic area may both capture under this sub-subparagraph for an additional period of 15 years as determined by the state treasurer and the president of the Michigan economic development corporation.

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

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

(A) Ad valorem property taxes or specific local taxes that are excluded from and not made part of the tax increment financing plan. Ad valorem personal property taxes or specific local taxes associated with personal property may be excluded from and may not be part of the tax increment financing plan.

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

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

(D) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or

specific local taxes attributable to such ad valorem property taxes.

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

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

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

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

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

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

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

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

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

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

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

(i) Meets all of the following requirements:

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

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

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

(ii) Meets all of the following requirements:

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

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

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

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

(iii) Meets all of the following requirements:

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

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

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

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

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

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

(iv) Meets all of the following requirements:

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

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

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

- (v) Meets all of the following requirements:
 - (A) Is located in a county with a population of 1,000,000 or more.
 - (B) Has a written agreement with an adjoining township to develop 1 or more public facilities on contiguous property located in both townships.
 - (C) Has a master plan in effect.
- (vi) Meets all of the following requirements:
 - (A) Has a population of less than 10,000.
 - (B) Has a state equalized valuation for all real and personal property located in the township of more than \$280,000,000.00.
 - (C) Adopted a master zoning plan before February 1, 1987.
 - (D) Has within its boundaries a combination of parcels under common ownership that is 199 acres or larger, is located within 1 mile of a limited access highway, and is located within 1 mile of an existing sewer line.
 - (E) Has rail service.
 - (F) Establishes an authority before May 7, 2009.
- (vii) Has joined an authority under section 3(2) which is seeking or has entered into an agreement for a certified technology park.
- (viii) Has established an authority which is seeking or has entered into an agreement for a certified alternative energy park.

History: 1986, Act 281, Eff. Feb. 1, 1987; ¹⁹⁸⁷Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991; ¹⁹⁹¹Am. 1992, Act 287, Imd. Eff. Dec. 18, 1992; ¹⁹⁹²Am. 1993, Act 333, Eff. Mar. 15, 1994; ¹⁹⁹⁴Am. 1994, Act 282, Imd. Eff. July 11, 1994; ¹⁹⁹⁴Am. 1994, Act 331, Imd. Eff. Oct. 14, 1994; ¹⁹⁹⁶Am. 1996, Act 270, Imd. Eff. June 12, 1996; ¹⁹⁹⁸Am. 1998, Act 1, Imd. Eff. Jan. 30, 1998; ¹⁹⁹⁸Am. 1998, Act 92, Imd. Eff. May 14, 1998; ²⁰⁰⁰Am. 2000, Act 248, Imd. Eff. June 29, 2000; ²⁰⁰³Am. 2003, Act 20, Imd. Eff. June 20, 2003; ²⁰⁰⁴Am. 2004, Act 17, Imd. Eff. Mar. 4, 2004; ²⁰⁰⁷Am. 2007, Act 200, Imd. Eff. Dec. 27, 2007; ²⁰⁰⁹Am. 2009, Act 162, Imd. Eff. Dec. 14, 2009; ²⁰¹⁰Am. 2010, Act 239, Imd. Eff. Dec. 14, 2010; ²⁰¹⁰Am. 2010, Act 276, Imd. Eff. Dec. 15, 2010; ²⁰¹⁰Am. 2010, Act 376, Imd. Eff. Dec. 22, 2010; ²⁰¹²Am. 2012, Act 290, Imd. Eff. Aug. 1, 2012; ²⁰¹³Am. 2013, Act 62, Imd. Eff. June 18, 2013; ²⁰¹⁶Am. 2016, Act 509, Imd. Eff. Jan. 9, 2017.

125.2153 Authority; establishment by municipality; establishment by next Michigan development corporation; limitation; powers.

Sec. 3. (1) Except as otherwise provided by subsection (2), a municipality may establish not more than 1 authority under the provisions of this act. An authority established under this subsection shall exercise its powers in all authority districts.

(2) In addition to an authority established under subsection (1), a municipality may join with 1 or more other municipalities located within the same county to establish an authority under this act. An authority created under this subsection may only exercise its powers in a certified technology park designated in an agreement made under section 12a or 12b or in a certified alternative energy park designated in an agreement under section 12c. A municipality shall not establish more than 1 authority under this subsection.

(3) A next Michigan development corporation may establish not more than 1 authority under the provisions of this act. An authority established under this subsection shall exercise its powers within its authority district and in all next Michigan development areas. The authority district in which the authority may exercise its powers shall include all or part of the territory of a next Michigan development corporation, as determined by the governing body of the next Michigan development corporation.

(4) The authority shall be a public body corporate which may sue and be sued in any court of this state. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised notwithstanding that bonds are not issued by the authority.

History: 1986, Act 281, Eff. Feb. 1, 1987; ²⁰⁰⁰Am. 2000, Act 248, Imd. Eff. June 29, 2000; ²⁰⁰⁹Am. 2009, Act 162, Imd. Eff. Dec. 14, 2009; ²⁰¹⁰Am. 2010, Act 276, Imd. Eff. Dec. 15, 2010; ²⁰¹²Am. 2012, Act 290, Imd. Eff. Aug. 1, 2012.

125.2154 Resolution of intent to create and provide for operation of authority; notice of public hearing; hearing; resolution exempting taxes from capture; action of library board or commission; resolution establishing authority and designating boundaries; filing and publication; alteration or amendment of boundaries; validity of proceedings; establishment of authority by 2 or more municipalities; procedures to be followed by Next Michigan development corporation.

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

(2) In the resolution of intent, the governing body proposing to create the authority shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district or districts. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Except as otherwise provided in subsection (8), not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in a proposed authority district and, for a public hearing to be held after February 15, 1994, to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district or districts. At that hearing, a resident, taxpayer, or property owner from a taxing jurisdiction in which the proposed district is located or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of that proposed authority district. The governing body of the municipality in which a proposed district is to be located shall not incorporate land into an authority district not included in the description contained in the notice of public hearing, but it may eliminate lands described in the notice of public hearing from an authority district in the final determination of the boundaries.

(3) Except as otherwise provided in subsection (8), not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction with millage that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. However, a resolution by a governing body of a taxing jurisdiction to exempt its taxes from capture is not effective for the capture of taxes that are used for a certified technology park or a certified alternative energy park. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk. If a separate millage for public library purposes was levied before January 1, 2017, and all obligations and other protected obligations of the authority are paid, then the levy is exempt from capture under this act, unless the library board or commission allows all or a portion of its taxes levied to be included as tax increment revenues and subject to capture under this act under the terms of a written agreement between the library board or commission and the authority. The written agreement shall be filed with the clerk of the municipality. However, if a separate millage for public library purposes was levied before January 1, 2017, and the authority alters or amends the boundaries of the authority district or extends the duration of the existing finance plan, then the library board or commission may, not later than 60 days after a public hearing is held under this subsection, exempt all or a portion of its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality that created the authority. For ad valorem property taxes or specific local taxes attributable to those ad valorem property taxes levied for a separate millage for public library purposes approved by the electors after December 31, 2016, a library board or commission may allow all or a portion of its taxes levied to be included as tax increment revenues and subject to capture under this act under the terms of a written agreement between the library board or commission and the authority. The written agreement shall be filed with the clerk of the municipality. However, if the library was created under section 1 or 10a of 1877 PA 164, MCL 397.201 and 397.210a, or established under 1869 LA 233, then any action of the library board or commission under this subsection shall have the concurrence of the chief executive officer of the city that created the library to be effective.

(4) Except as otherwise provided in subsection (8), not less than 60 days after the public hearing or a shorter period as determined by the governing body for a certified technology park or a certified alternative energy park, if the governing body creating the authority intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority and designating the boundaries of the authority district or districts within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval of resolutions by the chief executive officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body may alter or amend the boundaries of an authority district to include or exclude lands from that authority district or create new authority districts pursuant to the same requirements

prescribed for adopting the resolution creating the authority.

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

- (a) Publication of the resolution creating the authority as adopted.
- (b) Filing of the resolution creating the authority with the secretary of state.

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

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

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

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

(8) For an authority created under section 3(3), except as otherwise provided by this subsection, the Next Michigan development corporation shall comply with the procedures prescribed for a municipality by subsections (1) and (2) and this subsection. The provisions of subsections (3) and (4) shall not apply to an authority exercising its powers under section 3(3). The notice required by subsection (2) may be published by the Next Michigan development corporation in a newspaper or newspapers of general circulation within the municipalities which are constituent members of the Next Michigan development corporation, and notice shall not be required to be mailed to the property taxpayers of record in the proposed authority district. The governing body of the Next Michigan development corporation shall be the governing body of the authority. A taxing jurisdiction levying ad valorem taxes within the authority district that would otherwise be subject to capture which is not a party to the intergovernmental agreement may exempt its taxes from capture by adopting a resolution to that effect and filing a copy not more than 60 days after the public hearing with the recording officer of the Next Michigan development corporation. The Next Michigan development corporation shall mail notice of the public hearing to the governing body of each taxing jurisdiction which is not a party to the intergovernmental agreement not less than 20 days before the hearing. Following the public hearing, the governing body of the Next Michigan development corporation shall adopt a resolution designating the boundaries of the authority district within which the authority shall exercise its powers, which may include any certified technology park within the proposed authority district in accordance with this subsection and may include property adjacent to or within 1,500 feet of a road classified as an arterial or collector according to the Federal Highway Administration manual "Highway Functional Classification - Concepts, Criteria and Procedures" or of another road in the discretion of the Next Michigan development corporation, and property adjacent to that property within the territory of the Next Michigan development corporation, as provided in the resolution. The resolution shall be effective when adopted, shall be filed with the secretary of state and the president of the Michigan strategic fund promptly after its adoption, and shall be published at least once in a newspaper of general circulation in the territory of the Next Michigan development corporation. If an authority district designated under this subsection or subsequently amended includes a certified technology park which is within the authority district of another authority and which is subject to an existing development plan or tax increment financing plan, then that certified technology park may be considered to be under the jurisdiction of the authority established under section 3(3) if so provided in a resolution of the authority established under section 3(3) and if approved by resolution of the governing body of the municipality which created the other authority, and by the president of the Michigan strategic fund. If so provided and approved, then the development plan and tax increment financing plan applicable to the certified technology park, including all assets and obligations under the plans, shall be considered assigned and transferred from the other authority to the authority created under section 3(3), and the initial assessed value of the certified technology park prior to the transfer shall remain the initial assessed value of the certified technology park following the transfer. The transfer shall be effective as of the later of the effective date of the resolution of the authority established under section 3(3), the resolution approved by the governing body of the municipality which created the other authority, and the approval of the president of the

Michigan strategic fund.

History: 1986, Act 281, Eff. Feb. 1, 1987; IAm. 1993, Act 333, Eff. Mar. 15, 1994; IAm. 2000, Act 248, Imd. Eff. June 29, 2000; IAm. 2005, Act 15, Imd. Eff. May 4, 2005; IAm. 2010, Act 276, Imd. Eff. Dec. 15, 2010; IAm. 2012, Act 290, Imd. Eff. Aug. 1, 2012; IAm. 2016, Act 509, Imd. Eff. Jan. 9, 2017.

125.2155 Board; appointment, qualification, and terms of members; vacancy; reimbursement for expenses; chairperson; oath of office; rules; procedure; meetings; removal of member; publicizing expense items; financial records open to public; subsections (1) and (5) inapplicable to certain authority.

Sec. 5. (1) The authority shall be under the supervision and control of a board of 7 members appointed by the chief executive officer of the city, village, or urban township creating the authority subject to the approval of the governing body creating the authority. The board shall include 1 member appointed by the county board of commissioners of the county in which the authority is located. The board shall include 1 member representing a community or junior college in whose district the authority is located appointed by the chief executive officer of that community or junior college. The board shall also include 2 members appointed by the chief executive officer of each local governmental unit, other than the city, village, or urban township creating the authority, which levied 20% or more of the ad valorem property taxes levied against all property located in an authority district in the year before the year in which the authority district is established. However, those additional members shall only vote on matters relating to authority districts located within their respective local unit of government. Of the members first appointed, an equal number, as near as possible, shall have terms designated by the governing body creating the authority of 1 year, 2 years, 3 years, and 4 years. However, a member shall hold office until the member's successor is appointed. After the first appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made in the same manner as the original appointment. An appointment to fill an unexpired term shall be for the unexpired portion of the term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(2) The chairperson of the board shall be elected by the board.

(3) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(4) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) Subject to notice and an opportunity to be heard, a member of the board may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to review by the circuit court.

(6) All expense items of the authority shall be publicized annually and the financial records shall be open to the public pursuant to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) The provisions of subsections (1) and (5) of this section shall not apply to an authority exercising its powers under section 3(3).

History: 1986, Act 281, Eff. Feb. 1, 1987; IAm. 2010, Act 276, Imd. Eff. Dec. 15, 2010.

125.2156 Director, employment; compensation; term; oath of office; bond; chief executive officer; duties; acting director; appointment or employment, compensation, and duties of treasurer; appointment or employment, compensation, and duties of secretary; legal counsel; employment of other personnel; municipal retirement and insurance programs.

Sec. 6. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body creating the authority. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director shall take and subscribe to the constitutional oath of office and shall furnish bond by posting a bond in the penal sum determined in the resolution establishing the authority. The bond shall be payable to the authority for the use and benefit of the authority, approved by the board, and filed with the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If the director is absent or

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disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the constitutional oath of office and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties as may be delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel may represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees on the same basis as civil service employees.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2157 Powers of board generally.

Sec. 7. The board may:

(a) Study and analyze unemployment, underemployment, and joblessness and the impact of growth upon the authority district or districts.

(b) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility.

(c) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, to promote the growth of the authority district or districts, and take the steps that are necessary to implement the plans to the fullest extent possible to create jobs, and promote economic growth.

(d) Implement any plan of development necessary to achieve the purposes of this act in accordance with the powers of the authority as granted by this act.

(e) Make and enter into contracts necessary or incidental to the exercise of the board's powers and the performance of its duties.

(f) Acquire by purchase or otherwise on terms and conditions and in a manner the authority considers proper, own or lease as lessor or lessee, convey, demolish, relocate, rehabilitate, or otherwise dispose of real or personal property, or rights or interests in that property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to the property.

(g) Improve land, prepare sites for buildings, including the demolition of existing structures, and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, or operate a building, and any necessary or desirable appurtenances to a building, as provided in section 12(2) for the use, in whole or in part, of a public or private person or corporation, or a combination thereof.

(h) Fix, charge, and collect fees, rents, and charges for the use of a building or property or a part of a building or property under the board's control, or a facility in the building or on the property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(i) Lease a building or property or part of a building or property under the board's control.

(j) Accept grants and donations of property, labor, or other things of value from a public or private source.

(k) Acquire and construct public facilities.

(l) Incur costs in connection with the performance of the board's authorized functions including, but not limited to, administrative costs, and architects, engineers, legal, and accounting fees.

(m) Plan, propose, and implement an improvement to a public facility on eligible property to comply with the barrier free design requirements of the state construction code promulgated under the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being sections 125.1501 to 125.1531 of the Michigan Compiled Laws.

History: 1986, Act 281, Eff. Feb. 1, 1987; ~~Am.~~ 1993, Act 333, Eff. Mar. 15, 1994.

Administrative rules: R 408.30401 et seq. of the Michigan Administrative Code.

125.2158 Authority as instrumentality of political subdivision.

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Sec. 8. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2159 Taking, transfer, and use of private property.

Sec. 9. A municipality may take private property under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, for the purpose of transfer to the authority, and may transfer the property to the authority for use as authorized in the development plan, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2160 Financing activities of authority.

Sec. 10. The activities of the authority shall be financed from 1 or more of the following sources:

- (a) Contributions to the authority for the performance of its functions.
- (b) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.
- (c) Tax increment revenues received pursuant to a tax increment financing plan established under sections 12 to 14.
- (d) Proceeds of tax increment bonds issued pursuant to section 14.
- (e) Proceeds of revenue bonds issued pursuant to section 11.
- (f) Money obtained from any other legal source approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.
- (g) Money obtained pursuant to section 11a.
- (h) Loans from the Michigan strategic fund or the Michigan economic development corporation.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2000, Act 248, Imd. Eff. June 29, 2000.

125.2161 Revenue bonds.

Sec. 11. (1) The authority may borrow money and issue its negotiable revenue bonds pursuant to the revenue bond act of 1933, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.139 of the Michigan Compiled Laws. Except as provided in subsection (2), revenue bonds issued by the authority shall not be considered a debt of the municipality or of the state.

(2) The municipality by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's revenue bonds or, if authorized by the voters of the municipality, may pledge its full faith and credit to support the authority's revenue bonds.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2161a Insufficient tax increment revenues for repayment of advance or payment of obligation; appropriation; filing claim; information required in claim; distributions; determination of amounts; limitations; distribution subject to lien; indebtedness, liability, or obligation; certification of distribution amount; basis for calculation of distributions and claims reports; use of 12-month debt payment period.

Sec. 11a. (1) If the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, will cause the tax increment revenues received in a fiscal year by an authority under section 13 to be insufficient to repay an eligible advance or to pay an eligible obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).

(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to retain tax increment revenues from taxes levied by a local or intermediate school district or this state or to receive a distribution under this section for that fiscal year shall file a claim with the department of treasury. The claim shall include the following information:

- (a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.
- (b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.
- (c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon

actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(e) A list and documentation of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

(f) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

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

(h) A list and documentation of other protected obligations and the payments due on each of those other protected obligations in that fiscal year, and the total amount of all the payments due on those other protected obligations in that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim with all information required by subsection (2) at any time after March 15, 1994.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, if property taxes were levied by local school districts on property, including property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated, for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, exceed the sum of tax increment revenues the authority actually received for the fiscal year plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).

(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed under subsections (5) and (6) shall be increased by the amount of the shortfall. However, the amount authorized to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a

municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.

(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district operating taxes or attributable to taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(11) Calculations of distributions under this section and claims reports required to be made under subsection (2) shall be made on the basis of each development area of the authority.

(12) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

History: Add. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 1994, Act 282, Imd. Eff. July 11, 1994;—Am. 1996, Act 270, Imd. Eff. June 12, 1996;—Am. 1996, Act 452, Imd. Eff. Dec. 19, 1996;—Am. 1998, Act 1, Imd. Eff. Jan. 30, 1998.

125.2161b Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.

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

- (a) To repay an eligible advance.
- (b) To repay an eligible obligation.
- (c) To repay an other protected obligation.

(d) To pay an advance or an obligation identified in a development plan, or an amendment to that plan for property located in a certified technology park approved by board of the authority not later than 90 days after July 19, 2010 if the plan contains all of the following and the plan for the capture of school taxes has been approved within 1 year after July 19, 2010:

- (i) A detailed description of the project.
- (ii) A statement of the estimated cost of the project.
- (iii) The specific location of the project.
- (iv) The name of any developer of the project.

(e) To pay an advance or an obligation identified in a development plan, or an amendment to that plan for property located in a certified alternative energy park approved by the board of the authority if the plan contains all of the following and the plan for the capture of school taxes has been approved not later than December 31, 2012:

- (i) A detailed description of the project.
- (ii) A statement of the estimated cost of the project.
- (iii) The specific location of the project.
- (iv) The name of any developer of the project.

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

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

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon

actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

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

(d) A list of eligible obligations, eligible advances, other protected obligations, and advances and obligations described in subsection (1)(d) for expenditures authorized in a certified technology park or described in subsection (1)(e) for expenditures authorized in a certified alternative energy park; the payments due on each of those in that fiscal year; and the total amount of payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, the payment of another protected obligation, the payment of obligations or advances described in subsection (1)(d) for expenditures authorized in a certified technology park, or the payment of obligations or advances described in subsection (1)(e) for expenditures authorized in a certified alternative energy park. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

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

(3) Not later than August 15, 2008; for 2009 only, not later than 30 days after the effective date of the amendatory act that amended this sentence; and not later than August 15 of each subsequent year, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

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

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

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

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

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

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

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

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

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

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

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

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

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

History: Add. 2008, Act 155, Imd. Eff. June 5, 2008;⁽¹⁾Am. 2010, Act 127, Imd. Eff. July 19, 2010;⁽²⁾Am. 2012, Act 290, Imd. Eff. Aug. 1, 2012.

125.2162 Tax increment financing plan.

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

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

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

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

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

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

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

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

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

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

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

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

(l) The proposed boundaries of a certified technology park to be created under an agreement proposed to be entered into pursuant to section 12a, or of a certified alternative energy park to be created under an agreement proposed to be entered into pursuant to section 12c, or of a next Michigan development area designated under section 12e, an identification of the real property within the certified technology park, the certified alternative energy park, or the next Michigan development area to be included in the tax increment financing plan for purposes of determining tax increment revenues, and whether personal property located in the certified technology park, the certified alternative energy park, or the next Michigan development area is exempt from determining tax increment revenues.

(2) Except as provided in subsection (7), a tax increment financing plan shall provide for the use of tax

increment revenues for public facilities for eligible property whose captured assessed value produces the tax increment revenues or, to the extent the eligible property is located within a business development area or a next Michigan development area, for other eligible property located in the business development area or the next Michigan development area. Public facilities for eligible property include the development or improvement of access to and around, or within the eligible property, of road facilities reasonably required by traffic flow to be generated by the eligible property, and the development or improvement of public facilities that are necessary to service the eligible property, whether or not located on that eligible property. If the eligible property identified in the tax increment financing plan is property to which section 2(p)(iv) applies, the tax increment financing plan shall not provide for the use of tax increment revenues for public facilities other than those described in the development plan as of April 1, 1991. Whether or not provided in the tax increment financing plan, if the eligible property identified in the tax increment financing plan is property to which section 2(s)(iv) applies, then to the extent that captured tax increment revenues are utilized for the costs of cleanup of identified soil and groundwater contamination, the captured tax increment revenues shall be first credited against the shares of responsibility for the total costs of cleanup of uncollectible parties who are responsible for the identified soil and groundwater contamination pursuant to law, and then shall be credited on a pro rata basis against the shares of responsibility for the total costs of cleanup of other parties who are responsible for the identified soil and groundwater contamination pursuant to law.

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

(4) Except as otherwise provided by this subsection, approval of the tax increment financing plan shall be in accordance with the notice, hearing, disclosure, and approval provisions of sections 16 and 17. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together. For a plan submitted by an authority established by 2 or more municipalities under sections 3(2) and 4(7) or by an authority established by a next Michigan development corporation under sections 3(3) and 4(8), the notice required by section 16 may be published jointly by the municipalities in which the authority district is located or by the next Michigan development corporation. For a plan submitted by an authority exercising its powers under sections 3(2) and 4(7), the plan shall not be considered approved unless each governing body in which the authority district is located makes the determinations required by section 17 and approves the same plan, including the same modifications, if any, made to the plan by any other governing body. A plan submitted by an authority exercising its powers under sections 3(3) and 4(8) shall be approved if the governing body of the next Michigan development corporation makes the determinations required by section 17.

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

(6) Property qualified as a public facility under section 2(ff)(ii) that is acquired by an authority may be sold, conveyed, or otherwise disposed to any person, public or private, for fair market value or reasonable monetary consideration established by the authority with the concurrence of the Michigan economic development corporation and the municipality in which the eligible property is located based on a fair market value appraisal from a fee appraiser only if the property is sold for fair market value. Unless the property acquired by an authority was located within a certified business park, a certified technology park, a certified alternative energy park, or a next Michigan development area at the time of disposition, an authority shall

remit all monetary proceeds received from the sale or disposition of property that qualified as a public facility under section 2(ff)(i) and was purchased with tax increment revenues to the taxing jurisdictions. Proceeds distributed to taxing jurisdictions shall be remitted in proportion to the amount of tax increment revenues attributable to each taxing jurisdiction in the year the property was acquired. If the property was acquired in part with funds other than tax increment revenues, only that portion of the monetary proceeds received upon disposition that represent the proportion of the cost of acquisition paid with tax increment revenues is required to be remitted to taxing jurisdictions. If the property is located within a certified business park, a certified technology park, or a certified alternative energy park, or a next Michigan development area at the time of disposition, the monetary proceeds received from the sale or disposition of that property may be retained by the authority for any purpose necessary to further the development program for the certified business park, certified technology park, certified alternative energy park, or next Michigan development area in accordance with the tax increment financing plan.

(7) The tax increment financing plan may provide for the use of tax increment revenues from a certified technology park for public facilities for any eligible property located in the certified technology park. The tax increment financing plan may provide for the use of tax increment revenues from a certified alternative energy park for public facilities for any eligible property located in the certified alternative energy park. The tax increment financing plan may provide for the use of tax increment revenues within or without the development area from which the tax increment revenues are derived, provided that the tax increment revenues shall be used for public facilities within a next Michigan development area within the municipality whose levy has contributed to the tax increment revenues except as otherwise provided in the interlocal agreement creating the next Michigan development corporation that established the authority.

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

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

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991;—Am. 1993, Act 333, Eff. Mar. 15, 1994; —Am. 2000, Act 248, Imd. Eff. June 29, 2000;—Am. 2009, Act 162, Imd. Eff. Dec. 14, 2009;—Am. 2010, Act 276, Imd. Eff. Dec. 15, 2010;—Am. 2012, Act 290, Imd. Eff. Aug. 1, 2012.

125.2162a Designation as certified technology park; application to Michigan economic development corporation; agreement; determination of sale price or rental value for public facilities; inclusion of legal and equitable remedies and rights; marketing services; additional certified technology parks; priority to certain applications; duties of state.

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

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

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

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

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

- (iii) Donations of services.
 - (iv) Access to telecommunication facilities and other infrastructure.
 - (v) Financial commitments.
 - (vi) Access to faculty, staff, and students.
 - (vii) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.
- (b) A demonstration of a significant commitment on behalf of the institution of higher education, private research-based institute, or a large, private corporate research and development center to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.
- (c) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.
- (d) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:
- (i) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.
 - (ii) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.
 - (iii) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.
- (e) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:
- (i) A commitment to new business formation.
 - (ii) The clustering of businesses, technology, and research.
 - (iii) The opportunity for and costs of development of properties under common ownership or control.
 - (iv) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.
- (v) Assumptions of costs and revenues related to the development of the proposed certified technology park.
- (f) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain eligible property as defined by section 2(s)(iii) and (v).
- (3) An authority and a municipality that incorporated the authority may enter into an agreement with the Michigan economic development corporation establishing the terms and conditions governing the certified technology park. Upon designation of the certified technology park pursuant to the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement shall not result in the termination or rescission of the designation of the area as a certified technology park. The agreement shall include, but is not limited to, the following provisions:
- (a) A description of the area to be included within the certified technology park.
 - (b) Covenants and restrictions, if any, upon all or a portion of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions.
 - (c) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park.
 - (d) The terms of any commitment required from an institution of higher education or private research-based institute for support of the operations and activities at eligible properties within the certified technology park.
 - (e) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.
 - (f) The public facilities to be developed for the certified technology park.
 - (g) The costs approved for public facilities under section 2(dd).
- (4) If the Michigan economic development corporation has determined that a sale price or rental value at below market rate will assist in increasing employment or private investment in the certified technology park, the authority and municipality have authority to determine the sale price or rental value for public facilities owned or developed by the authority and municipality in the certified technology park at below market rate.
- (5) If public facilities developed pursuant to an agreement entered into under this section are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall

include legal and equitable remedies and rights to assure the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

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

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

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

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

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

(11) The Michigan economic development corporation may designate an additional 3 certified technology parks before March 31, 2013. It is the intent of the legislature that after the additional 3 certified technology parks are designated under this subsection, no additional certified technology parks shall be designated under this section.

(12) The Michigan economic development corporation shall give priority to applications that include new business activity.

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

(14) Not including certified technology parks designated under subsection (8), but for certified technology parks designated under subsections (9), (10), and (11) only, this state shall do all of the following:

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

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

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

History: Add. 2000, Act 248, Imd. Eff. June 29, 2000;^[1]Am. 2002, Act 575, Imd. Eff. Oct. 3, 2002;^[2]Am. 2004, Act 365, Imd. Eff. Oct. 7, 2004;^[3]Am. 2008, Act 105, Imd. Eff. Apr. 23, 2008;^[4]Am. 2009, Act 161, Imd. Eff. Dec. 14, 2009;^[5]Am. 2009, Act 162, Imd.

125.2162b Creation of authority in which certified technology park designated; agreement with another authority; designation of distinct geographic area; consideration of advantages and benefits; capture of amounts levied by state and local and intermediate school districts; application for approval of distinct geographic area; competitive application process; requirements.

Sec. 12b. (1) A municipality that has created an authority in which a certified technology park has been designated under this act may enter into an agreement with another authority that does not contain a certified technology park to designate a distinct geographic area within the authority district as a certified technology park. The authority shall consider the advantages of the unique characteristics and specialties offered by the public and private resources available in the distinct geographic area, shall consider the benefits to regional cooperation and collaboration, and shall consider whether designating the additional distinct geographic area adds value to the mission of the designated certified technology park. The distinct geographic area is subject to the provisions of section 12a(3), (4), and (5). The state treasurer shall not approve the capture of amounts levied by the state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local and intermediate school districts as permitted in section 2(jj)(i)(B) for more than 9 distinct geographic areas designated under this section. In addition, beginning on the effective date of the amendatory act that added subsection (2), the state treasurer shall not approve the capture of amounts described in this subsection unless the application for approval of a distinct geographic area under this subsection is also approved by the Michigan economic development corporation as provided in subsection (2). A copy of the designation shall be filed with the Michigan economic development corporation.

(2) Beginning on the effective date of the amendatory act that added this subsection, the Michigan economic development corporation shall designate the distinct geographic areas under subsection (1) pursuant to a competitive application process that has an initial application period and a final application period and that meets all the following:

(a) The initial application period shall begin on the effective date of the amendatory act that added this subsection and end on October 1, 2015. All applications submitted during the initial application period shall be approved or denied not later than November 1, 2015. The Michigan economic development corporation may approve up to 3 applications as a result of the initial application period. Applications submitted outside the initial application period shall not be considered under this subdivision.

(b) The final application period shall begin on January 1, 2016 and end on July 1, 2016. All applications submitted during the final application period shall be approved or denied by September 1, 2016. The Michigan economic development corporation may approve the remaining designations available under subsection (1) as a result of the final application period. However, there is no requirement that all 9 designations be made under this section. Applications submitted outside the final application period shall not be considered under this subdivision.

(c) The Michigan economic development corporation shall publish the application process and competitive criteria upon which applications will be evaluated on its website. If an application does not meet the requirements of this section, the application shall not be approved by the Michigan economic development corporation.

History: Add. 2008, Act 104, Imd. Eff. Apr. 23, 2008; ¹Am. 2015, Act 125, Imd. Eff. July 15, 2015.

125.2162c Designation as certified alternative energy park; application; criteria; agreement; determination of sale price or rental value for public facilities; inclusion of legal and equitable remedies and rights; limitations; pledge to support authority's tax increment bonds; ownership and operation by economic development corporation.

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

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

(a) A demonstration that the proposed alternative energy park will be developed to take advantage of the

unique characteristics and specialties offered by public and private resources available in the area in which the proposed certified alternative energy park will be located.

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

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

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

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

(i) A commitment to new business formation or major business attraction.

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

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

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

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

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

(e) The proposed certified alternative energy park includes a military installation that was operated by the United States department of defense and closed after 1980.

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

(a) A description of the area to be included within the certified alternative energy park.

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

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

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

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

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

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

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

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

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

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

(8) For an authority established by 2 or more municipalities under sections 3(2) and 4(7), each municipality in which the authority district is located by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds issued under section 14 or, if authorized by the voters of the municipality, may pledge its full faith and credit for the payment of the

principal of and interest on the bonds. The municipalities that have made a pledge to support the authority's tax increment bonds may approve by resolution an agreement among themselves establishing obligations each may have to the other party or parties to the agreement for reimbursement of all or any portion of a payment made by a municipality related to its pledge to support the authority's tax increment bonds.

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

History: Add. 2009, Act 162, Imd. Eff. Dec. 14, 2009;^[1]Am. 2012, Act 290, Imd. Eff. Aug. 1, 2012.

125.2162d Conveyance or lease of public facilities at less than fair market value or below market rates.

Sec. 12d. (1) If an authority determines that a sale price or rental value at below market rate will assist in increasing employment or private investment in a development area, the authority may determine a sale price or rental value for public facilities owned or developed by the authority at below market rate.

(2) If public facilities are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure that the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages. If public facilities for public benefit are provided to private owners or users of eligible property, the terms of the conveyance or lease shall include a benefit to the private owner or user.

History: Add. 2010, Act 276, Imd. Eff. Dec. 15, 2010.

125.2162e Notice of designation of next Michigan development area; marketing of authority district by Michigan economic development corporation; pledge to support tax increment bonds.

Sec. 12e. (1) A next Michigan development corporation establishing an authority under section 3(3) shall notify the Michigan economic development corporation of the designation of a next Michigan development area.

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

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

History: Add. 2010, Act 276, Imd. Eff. Dec. 15, 2010;^[1]Am. 2012, Act 290, Imd. Eff. Aug. 1, 2012.

Compiler's note: This section as originally enacted was assigned the compilation number 125.2162c[1] to distinguish it from another section 12c deriving from 2009 PA 162. To avoid a conflict, this section has been renumbered as 125.2162e.

125.2163 Tax increment revenues transmitted to authority; expenditure of tax increment revenues; retention or reversion of excess revenue; prohibition; abolition of tax increment financing plan; annual financial report.

Sec. 13. (1) The city, village, township, school district, and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only in accordance with the tax increment financing plan. Tax increment revenues in excess of the estimated tax increment revenues or of the actual costs of the plan to be paid by the tax increment revenues may be retained by the authority only for purposes, that by resolution of the board, are determined to further the development program in accordance with the tax increment financing plan. The excess tax increment revenues not so used shall revert proportionately to the respective taxing jurisdictions. These revenues shall not be used to circumvent existing property tax laws or a local charter that provides a maximum authorized rate for the levy of property taxes. The governing body may abolish the tax increment financing plan if it finds that the purposes for which the plan was established are accomplished. However, the tax increment financing plan may not be abolished until the principal of and interest on bonds issued pursuant to section 14 have been paid

or funds sufficient to make that payment have been segregated and placed in an irrevocable trust for the benefit of the holders of the bonds.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the tax increment financing plan. The report shall include the following:

- (a) The amount and source of tax increment revenues received.
- (b) The amount in any bond reserve account.
- (c) The amount and purpose of expenditures of tax increment revenues.
- (d) The amount of principal and interest on any outstanding bonded indebtedness of the authority.
- (e) The initial assessed value of the eligible property.
- (f) The captured assessed value of the eligible property retained by the authority.
- (g) The number of jobs created as a result of the implementation of the tax increment financing plan.
- (h) Any additional information the governing body or the state tax commission considers necessary.

History: 1986, Act 281, Eff. Feb. 1, 1987; ¹⁹⁸⁷Am. 1993, Act 333, Eff. Mar. 15, 1994.

125.2164 Tax increment bonds; qualified refunding obligation.

Sec. 14. (1) By resolution of its board and subject to the limitations set forth in this section, the authority may authorize, issue, and sell its tax increment bonds to finance a development program. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The authority may pledge for debt service requirements the tax increment revenues to be received from an eligible property. The bonds issued under this section shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality by majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds or, if authorized by the voters of the municipality, pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 10.

(3) Bonds and notes issued by the authority and the interest on and income from those bonds and notes are exempt from taxation by the state or a political subdivision of this state.

(4) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 11a by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

History: 1986, Act 281, Eff. Feb. 1, 1987; ¹⁹⁸⁷Am. 1993, Act 333, Eff. Mar. 15, 1994; ¹⁹⁹⁴Am. 1996, Act 270, Imd. Eff. June 12, 1996; ¹⁹⁹⁶Am. 2002, Act 235, Imd. Eff. Apr. 29, 2002.

125.2165 Development plan generally.

Sec. 15. (1) If a board decides to finance a project under this act, it shall prepare a development plan.

(2) To the extent necessary to accomplish the proposed development program the development plan shall contain:

(a) A description of the property to which the plan applies in relation to the boundaries of the authority district and a legal description of the property.

(b) The designation of boundaries of the property to which the plan applies in relation to highways, streets, or otherwise.

(c) The location and extent of existing streets and other public facilities in the vicinity of the property to which the plan applies; the location, character, and extent of the categories of public and private land uses then existing and proposed for the property to which the plan applies, including residential, recreational, commercial, industrial, educational, and other uses.

(d) A description of public facilities to be acquired for the property to which the plan applies, a description of any repairs and alterations necessary to make those improvements, and an estimate of the time required for completion of the improvements.

(e) The location, extent, character, and estimated cost of the public facilities for the property to which the plan applies, and an estimate of the time required for completion.

(f) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(g) A description of any portions of the property to which the plan applies, which the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.

(i) An estimate of the cost of the public facility or facilities, a statement of the proposed method of financing the public facility or facilities, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the public facility or facilities is to be leased, sold, or conveyed and for whose benefit the project is being undertaken, if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying of all or a portion of the public facility or facilities upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed to those persons.

(l) Estimates of the number of persons residing on the property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development.

(n) Provision for the costs of relocating persons displaced by the development, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, 42 U.S.C. 4601 to 4655.

(o) A plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(p) Other material which the authority or governing body considers pertinent.

(3) It shall not be necessary for the board to prepare a development plan pursuant to this section if a development plan that adequately provides for accomplishing the proposed development program has already been prepared and where the development plan has been approved by the board and governing body pursuant to sections 16 and 17.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2166 Adoption of resolution approving development plan or tax increment financing plan; public hearing; notice; record.

Sec. 16. (1) Before adoption of a resolution approving or amending a development plan or approving or amending a tax increment financing plan, the governing body shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall not be less than 20 days before the date set for the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain the following:

(a) A description of the property to which the plan applies in relation to highways, streets, streams, or otherwise,

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

(c) Other information that the governing body considers appropriate.

(3) At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the matter. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for

introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at that time.

History: 1986, Act 281, Eff. Feb. 1, 1987; [1]2005, Act 15, Imd. Eff. May 4, 2005.

125.2167 Development plan or tax increment financing plan as constituting public purpose; approval or rejection; considerations; amendments; procedure, notice, findings, and amendment as conclusive; contest.

Sec. 17. (1) After a public hearing on the development plan or the tax increment financing plan, or both, with notice of the hearing given pursuant to section 16, the governing body shall determine whether the development plan or tax increment financing plan, or both, constitutes a public purpose. If the governing body determines that the development plan or tax increment financing plan, or both, constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following considerations:

(a) Whether the development plan meets the requirements set forth in section 15(2) and the tax increment financing plan meets the requirements set forth in section 12(1), (2), and (3).

(b) Whether the proposed method of financing the public facility or facilities is feasible and the authority has the ability to arrange the financing.

(c) Whether the development is reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured assessed value estimated to result from adoption of the plan is reasonable.

(e) Whether the land to be acquired under the development plan is reasonably necessary to carry out the purposes of the plan and the purposes of this act.

(f) Whether the development plan is in reasonable accord with the approved master plan of the municipality, if an approved master plan exists.

(g) Whether public services, such as fire and police protection and utilities, are or will be adequate to service the property.

(h) Whether changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Except as provided in this subsection, amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection following the same notice and public hearing provisions that are necessary for approval or rejection of the original plan. Notice and hearing shall not be necessary for revisions in the estimates of captured assessed value and tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured assessed value shall be conclusive unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the resolution adopting the plan is not open to contest.

History: 1986, Act 281, Eff. Feb. 1, 1987; [1]Am. 1993, Act 333, Eff. Mar. 15, 1994.

125.2168 Relocation of person; notice to vacate.

Sec. 18. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2169 Preparation and submission of budget; manner; approval; cost of handling and auditing funds.

Sec. 19. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body.

(2) The governing body may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 1986, Act 281, Eff. Feb. 1, 1987; [1]Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991; [1]Am. 1993, Act 333, Eff. Mar. 15, 1994; [1]Am. 2008, Act 522, Imd. Eff. Jan. 13, 2009.

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125.2170 Dissolution of authority; resolution; disposition of property and assets.

Sec. 20. An authority that completes the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality or to an agency or instrumentality designated by resolution of the municipality.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2171 Proceedings to enforce act.

Sec. 21. The state tax commission may institute proceedings to compel enforcement of this act.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2172 Effective date.

Sec. 22. This act shall take effect on February 1, 1987.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2173 Conditional effective date.

Sec. 23. This act shall not take effect unless House Bill No. 5729 of the 83rd Legislature is enacted into law.

History: 1986, Act 281, Eff. Feb. 1, 1987.

Compiler's note: House Bill No. 5729, referred to in MCL 125.2173, was filed with the Secretary of State December 22, 1986, and became P.A. 1986, No. 280, Imd. Eff. Dec. 22, 1986.

125.2174 Constitutionality of act.

Sec. 24. Pursuant to section 8 of article III of the state constitution of 1963, it is the intent of the legislature, by concurrent resolution, to request the opinion of the supreme court as to the constitutionality of this 1986 act if the governor has not already requested an opinion.

History: 1986, Act 281, Eff. Feb. 1, 1987.

OPEN MEETINGS ACT

HANDBOOK



Attorney General Bill Schuette

The Handbook is intended to be a quick reference guide. It is not intended to be encyclopedic on every subject or resolve every situation that may be encountered.

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OPEN MEETINGS ACT

THE BASICS

The Act – the Open Meetings Act (OMA) is 1976 PA 267, MCL 15.261 through 15.275. The OMA took effect January 1, 1977. In enacting the OMA, the Legislature promoted a new era in governmental accountability and fostered openness in government to enhance responsible decision making.¹

Nothing in the OMA prohibits a public body from adopting an ordinance, resolution, rule, or charter provision that requires a greater degree of openness relative to public body meetings than the standards provided for in the OMA.²

What bodies are covered? – the OMA applies to all meetings of a public body.³ A "public body" is broadly defined as:

[A]ny state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to *exercise governmental or proprietary authority or perform a governmental or proprietary function*; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement.⁴ [Emphasis added.]

As used in the OMA, the term "public body" connotes a collective entity and does not include an individual government official.⁵ The OMA does not apply to private, nonprofit corporations.⁶

Public notice requirements – a meeting of a public body cannot be held unless public notice is given consistent with the OMA.⁷ A public notice must contain the public body's name, telephone number, and address, and must be posted at its principal office and any other locations

¹ *Booth Newspapers, Inc v Univ of Michigan Bd of Regents*, 444 Mich 211, 222-223; 507 NW2d 422 (1993).

² MCL 15.261.

³ MCL 15.263. When the Handbook refers to a "board," the term encompasses all boards, commissions, councils, authorities, committees, subcommittees, panels, and any other public body.

⁴ MCL 15.262(a). The provision in the OMA that includes a lessee of a public body performing an essential public purpose is unconstitutional because the title of the act does not refer to organizations other than "public bodies." OAG, 1977-1978, No 5207, p 157 (June 24, 1977). Certain boards are excluded "when deliberating the merits of a case." MCL 15.263(7). See also MCL 15.263(8) and (10).

⁵ *Herald Co v Bay City*, 463 Mich 111, 129-133; 614 NW2d 873 (2000) – a city manager is not subject to the OMA. *Craig v Detroit Public Schools Chief Executive Officer*, 265 Mich App 572, 579; 697 NW2d 529 (2005). OAG, 1977-1978, No 5183A, p 97 (April 18, 1977).

⁶ OAG, 1985-1986, No 6352, p 252 (April 8, 1986) – the Michigan High School Athletic Association is not subject to the OMA. See also *Perlongo v Iron River Cooperative TV Antenna Corp*, 122 Mich App 433; 332 NW2d 502 (1983).

⁷ MCL 15.265(1). *Nicholas v Meridian Charter Twp*, 239 Mich App 525, 531; 609 NW2d 574 (2000).

the public body considers appropriate.⁸ If a public body is a part of a state department, a public notice must also be posted in the principal office of the state department.⁹

Public notice requirements are specific to the type of meeting:

- (1) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.
- (2) For a change in schedule of regular meetings of a public body, there shall be posted within three days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.
- (3) For a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting.
- (4) A meeting of a public body which is recessed for more than 36 hours shall be reconvened only after public notice has been posted at least 18 hours before the reconvened meeting.¹⁰

At their first meeting of the calendar or fiscal year, each board must set the dates, times, and places of the board's regular meetings for the coming year. The OMA does not require any particular number of meetings. The board's schedule of regular meetings is not, of course, set in stone. The board is free to cancel or reschedule its meetings.

The minimum 18-hour notice requirement is not fulfilled if the public is denied access to the notice of the meeting for any part of the 18 hours.¹¹ The requirement may be met by posting at least 18 hours in advance of the meeting using a method designed to assure access to the notice. For example, the public body can post the notice at the main entrance visible on the outside of the building that houses the principal office of the public body.¹²

A public body must send copies of the public notices by first class mail to a requesting party, upon the party's payment of a yearly fee of not more than the reasonable estimated cost of printing and postage. Upon written request, a public body, at the same time a public notice of a meeting is posted, must provide a copy of the public notice to any newspaper published in the state or any radio or television station located in the state, free of charge.¹³

⁸ MCL 15.264(a)-(c).

⁹ MCL 15.264(c).

¹⁰ MCL 15.265(2)-(5).

¹¹ OAG, 1979-1980, No 5724, p 840 (June 20, 1980).

¹² OAG No 5724.

¹³ MCL 15.266.

Agendas and the OMA – while the OMA requires a public body to give public notice when it meets, it has no requirement that the public notice include an agenda or a specific statement as to the purpose of a meeting.¹⁴ No agenda format is required by the OMA.¹⁵

Penalties for OMA violations – a public official who "intentionally violates" the OMA may be found guilty of a misdemeanor¹⁶ and may be personally liable for actual and exemplary damages of not more than \$500 for a single meeting.¹⁷ The exemptions in the OMA must be strictly construed. The "rule of lenity" (i.e., courts should mitigate punishment when the punishment in the criminal statute is unclear) does not apply to construction of the OMA's exemptions.¹⁸

A decision made by a public body may be invalidated by a court, if the public body has not complied with the requirements of MCL 15.263(1), (2), and (3) [i.e., making decisions at a public meeting] or if failure to give notice in accordance with section 5 has interfered with substantial compliance with MCL 15.263(1), (2), and (3) and the court finds that the noncompliance has impaired the rights of the public under the OMA.

Lawsuits to compel compliance – actions must be brought within 60 days after the public body's approved minutes involving the challenged decision are made publicly available.¹⁹ If the decision involves the approval of contracts, the receipt or acceptance of bids, or the procedures pertaining to the issuance of bonds or other evidences of indebtedness, the action must be brought within 30 days after the approved minutes are made publicly available.²⁰ If the decision of a state public body is challenged, venue is in Ingham County.²¹

Correcting non-conforming decisions – in any case where a lawsuit has been initiated to invalidate a public body's decision on the ground that it was not made in conformity with the OMA, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with the OMA. A decision reenacted in this manner shall be effective from the date of reenactment and is not rendered invalid by any deficiency in its initial enactment.²² If the board acts quickly, the reenactment may defeat a claim for attorney's fees, since plaintiffs would not be successful in "obtaining relief in the action" within the meaning of the OMA.²³

¹⁴ OAG, 1993-1994, No 6821, p 199 (October 18, 1994). But, as discussed in OAG No 6821, other statutes may require a public body to state in its notice the business to be transacted at the meeting.

¹⁵ *Lysogorski v Bridgeport Charter Twp*, 256 Mich App 297, 299; 662 NW2d 108 (2003).

¹⁶ MCL 15.272.

¹⁷ MCL 15.273.

¹⁸ *People v Whitney*, 228 Mich App 230, 244; 578 NW2d 329 (1998).

¹⁹ MCL 15.270(3)(a).

²⁰ MCL 15.270(3)(b).

²¹ MCL 15.270(4).

²² MCL 15.270(5).

²³ *Leemreis v Sherman Twp*, 273 Mich App 691, 700; 731 NW2d 787 (2007). *Felice v Cheboygan County Zoning Comm*, 103 Mich App 742, 746; 304 NW2d 1 (1981).

DECISIONS MUST BE MADE IN PUBLIC MEETINGS

All decisions must be made at a meeting open to the public – the OMA defines "decision" to mean "a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy."²⁴ The OMA provides that "[a]ll decisions of a public body shall be made at a meeting open to the public," and that, with limited exceptions, "[a]ll deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public."²⁵

The OMA does not contain a "voting requirement" or any form of "formal voting requirement." A "consensus building process" that equates to decision-making would fall under the act.²⁶ For example, where board members use telephone calls or sub-quorum meetings to achieve the same intercommunication that could have been achieved in a full board or commission meeting, the members' conduct is susceptible to "round-the-horn" decision-making, which achieves the same effect as if the entire board had met publicly and formally cast its votes. A "round-the-horn" process violates the OMA.²⁷

Meeting "informally" to discuss matters – while the OMA "does not apply to a meeting which is a social or chance gathering or conference not designed to avoid this act,"²⁸ a meeting of a public body must be open to the public. The OMA does not define the terms "social or chance gathering" or "conference," and provides little direct guidance as to the precise scope of this exemption.²⁹ To promote openness in government, however, the OMA is entitled to a broad interpretation and exceptions to conduct closed sessions must be construed strictly.³⁰ Thus, the closed session exception does not apply to a quorum of a public body that meets to discuss matters of public policy, even if there is no intention that the deliberations will lead to a decision on that occasion.³¹

Canvassing board members on how they might vote – an informal canvas by one member of a public body to find out where the votes would be on a particular issue does not violate the OMA,

²⁴ MCL 15.262(d).

²⁵ MCL 15.263(2) and (3).

²⁶ *Booth Newspapers, Inc v Univ of Michigan Bd of Regents*, 444 Mich at 229.

²⁷ *Booth Newspapers, Inc*, 444 Mich at 229 – "any alleged distinction between the [public body's] consensus building and a determination or action, as advanced in the OMA's definition of 'decision,' is a distinction without a difference."

²⁸ MCL 15.263(10).

²⁹ OAG, 1981-1982, No 6074, p 662, 663 (June 11, 1982).

³⁰ *Wexford County Prosecutor v Pranger*, 83 Mich App 197, 201, 204; 268 NW2d 344 (1978).

³¹ OAG, 1977-1978, No 5298, p 434, 435 (May 2, 1978). See also OAG, 1979-1980, No 5444, p 55, 56 (February 21, 1979) – anytime a quorum of a public body meets and considers a matter of public policy, the meeting must comply with the OMA's requirements. Compare OAG, 1979-1980, No 5437, p 36, 37 (February 2, 1979), where members of a public body constituting a quorum come together by chance, the gathering is exempt from the OMA; however, even at a chance meeting, matters of public policy may not be discussed by the members with each other.

so long as no decisions are made during the discussions and the discussions are not a deliberate attempt to the avoid the OMA.³²

May a quorum of a board gather outside an open meeting without violating the OMA? – yes, in some instances. In addition to a purely social gathering or chance gathering³³ that does not involve discussions of public policy among the members of the board, a quorum may accept an invitation to address a civic organization,³⁴ listen to the concerns of a neighborhood organization, or observe demonstrations, if the board doesn't deliberate toward, or make, a decision.³⁵

A board quorum also may meet for a workshop, seminar, informational gathering, or professional conference designed to convey, to the conference participants, information about areas of professional interest common to all conference participants.³⁶ These kinds of meetings involve a conference designed primarily to provide training or background information and involve a relatively broad focus upon issues of general concern, rather than a more limited focus on matters or issues of particular interest to a single public body.³⁷ However, when gatherings are designed to receive input from officers or employees of the public body, the OMA requires that the gathering be held at a public meeting.³⁸

The OMA was not violated when several members of the board of county commissioners attended a public meeting of the county planning committee (which had more than fifty members, two who were county commissioners), which resulted in a quorum of the board being present at the meeting (without the meeting also being noticed as a county commission meeting), so long as the nonmember commissioners did not engage in deliberations or render decisions.³⁹

Advisory committees and the OMA – the OMA does not apply to committees and subcommittees composed of less than a quorum of the full public body if they "are merely advisory or only capable of making 'recommendations concerning the exercise of governmental authority."⁴⁰

Where, on the other hand, a committee or subcommittee is empowered to act on matters in such a fashion as to deprive the full public body of the opportunity to consider a matter, a decision of the committee or subcommittee "is an exercise of governmental authority which effectuates

³² *St Aubin v Ishpeming City Council*, 197 Mich App 100, 103; 494 NW2d 803 (1992).

³³ OAG, 1979-1980, No 5437, p 36 (February 2, 1979).

³⁴ OAG, 1977-1978, No 5183, p 21, 35 (March 8, 1977).

³⁵ OAG, 1977-1978, No 5364, p 606, 607 (September 7, 1978).

³⁶ OAG, 1979-1980, No 5433, p 29, 31 (January 31, 1979).

³⁷ OAG, 1981-1982, No 6074, at p 664.

³⁸ OAG No 5433 at p 31.

³⁹ OAG, 1989-1990, No 6636, p 253 (October 23, 1989), cited with approval in *Ryant v Cleveland Twp*, 239 Mich App 430, 434-435; 608 NW2d 101 (2000) and *Nicholas v Meridian Charter Twp*, 239 Mich App at 531-532. If, however, the noncommittee board members participate in committee deliberations, the OMA would be violated. *Nicholas*, 239 Mich App at 532.

⁴⁰ OAG, 1997-1998, No 6935, p 18 (April 2, 1997); OAG No 5183 at p 40.

public policy" and the committee or subcommittee proceedings are, therefore, subject to the OMA.⁴¹

If a joint meeting of two committees of a board (each with less than a quorum of the board) results in the presence of a quorum of the board, the board must comply in all respects with the OMA and notice of the joint meeting must include the fact that a quorum of the board will be present.⁴²

Use of e-mail or other electronic communications among board members during an open meeting – e-mail, texting, or other forms of electronic communications among members of a board or commission during the course of an open meeting that constitutes deliberations toward decision-making or actual decisions violates the OMA, since it is in effect a "closed" session. While the OMA does not require that all votes by a public body must be by roll call, voting requirements under the act are met when a vote is taken by roll call, show of hands, or other method that informs the public of the public official's decision rendered by his or her vote. Thus, the OMA bars the use of e-mail or other electronic communications to conduct a secret ballot at a public meeting, since it would prevent citizens from knowing how members of the public body have voted.⁴³

Moreover, the use of electronic communications for discussions or deliberations, which are not, at a minimum, able to be heard by the public in attendance at an open meeting are contrary to the OMA's core purpose – the promotion of openness in government.⁴⁴

Using e-mail to distribute handouts, agenda items, statistical information, or other such material during an open meeting should be permissible under the OMA, particularly when copies of that information are also made available to the public before or during the meeting.

⁴¹ *Schmiedtke v Clare School Bd*, 228 Mich App 259, 261, 263-264; 577 NW2d 706 (1998); *Morrison v East Lansing*, 255 Mich App 505; 660 NW2d 395 (2003); and OAG, 1997-1998, No 7000, p 197 (December 1, 1998) – a committee composed of less than a quorum of a full board is subject to the OMA, if the committee is effectively authorized to determine whether items will or will not be referred for action by the full board, citing OAG, 1977-1978, No 5222, p 216 (September 1, 1977).

⁴² OAG, 1989-1990, No 6636, at p 254.

⁴³ See *Esperance v Chesterfield Twp*, 89 Mich App 456, 464; 280 NW2d 559 (1979) and OAG, 1977-1978, No 5262, p 338 (January 31, 1978).

⁴⁴ See *Booth Newspapers, Inc*, 444 Mich at 229; *Schmiedtke*, 228 Mich App at 263, 264; and *Wexford County Prosecutor*, 83 Mich App at 204.

CLOSED SESSIONS

Meeting in closed session – a public body may meet in a closed session *only* for one or more of the permitted purposes specified in section 8 of the OMA.⁴⁵ The limited purposes for which closed sessions are permitted include, among others⁴⁶:

- (1) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, *if the named person requests a closed hearing*.⁴⁷
- (2) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement *if either negotiating party requests a closed hearing*.⁴⁸
- (3) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.⁴⁹
- (4) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, *but only if an open meeting* would have a detrimental financial effect on the litigating or settlement position of the public body.⁵⁰
- (5) To review and consider the contents of an application for employment or appointment to a public office *if the candidate requests that the application remain confidential*. However, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act.⁵¹
- (6) To consider material exempt from discussion or disclosure by state or federal statute.⁵² But note – a board is not permitted to go into closed session to discuss an attorney's oral opinion, as opposed to a written legal memorandum.⁵³

A closed session must be conducted during the course of an open meeting – section 2(c) of the OMA defines "closed session" as "a meeting or part of a meeting of a public body that is

⁴⁵ MCL 15.268. OAG, 1977-1978, No 5183, at p 37.

⁴⁶ The other permissible purposes deal with public primary, secondary, and post-secondary student disciplinary hearings – section 8(b); state legislature party caucuses – section 8(g); compliance conferences conducted by the Michigan Department of Community Health – section 8(i); and public university presidential search committee discussions – section 8(j).

⁴⁷ MCL 15.268(a) (Emphasis added.)

⁴⁸ MCL 15.268(c) (Emphasis added.)

⁴⁹ MCL 15.268(d).

⁵⁰ MCL 15.268(e) (Emphasis added.)

⁵¹ MCL 15.268(f) (Emphasis added.)

⁵² MCL 15.268(h).

⁵³ *Booth Newspapers, Inc v Wyoming City Council*, 168 Mich App 459, 467, 469-470; 425 NW2d 695 (1988).

closed to the public."⁵⁴ Section 9(1) of the OMA provides that the minutes of an open meeting must include "the purpose or purposes for which a closed session is held."⁵⁵

Going into closed session – section 7(1) of the OMA⁵⁶ sets out the procedure for calling a closed session:

A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i), and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

Thus, a public body may go into closed session only upon a motion duly made, seconded, and adopted by a 2/3 roll call vote of the members appointed and serving⁵⁷ during an open meeting for the purpose of (1) considering the purchase or lease of real property, (2) consulting with their attorney, (3) considering an employment application, or (4) considering material exempt from disclosure under state or federal law. A majority vote is sufficient for going into closed session for the other OMA permitted purposes.

We suggest that every motion to go into closed session should cite one or more of the permissible purposes listed in section 8 of the OMA.⁵⁸ An example of a motion to go into closed session is:

I move that the Board meet in closed session under section 8(e) of the Open Meetings Act, to consult with our attorney regarding trial or settlement strategy in connection with [the name of the specific lawsuit].

Another example is the need to privately discuss with the public body's attorney a memorandum of advice as permitted under section 8(h) of the OMA – "to consider material exempt from discussion or disclosure by state or federal statute."⁵⁹ The motion should cite section 8(h) of the OMA and the statutory basis for the closed session, such as section 13(1)(g) of the Freedom of Information Act, which exempts from public disclosure "[i]nformation or records subject to the attorney-client privilege."⁶⁰

Leaving a closed session – the OMA is silent as to how to leave a closed session. We suggest that you recommend a motion be made to end the closed session with a majority vote needed for

⁵⁴ MCL 15.262(o).

⁵⁵ MCL 15.269(1).

⁵⁶ MCL 15.267(1).

⁵⁷ And not just those attending the meeting. OAG No 5183 at p 37.

⁵⁸ MCL 15.268.

⁵⁹ MCL 15.268(h). Proper discussion of a written legal opinion at a closed meeting is, with regard to the attorney-client privilege exemption to the OMA, limited to the meaning of any strictly legal advice presented in the written opinion. *People v Whitney*, 228 Mich App at 245-248.

⁶⁰ MCL 15.243(1)(g).

approval. Admittedly, this is a decision made in a closed session, but it certainly isn't a decision that "effectuates or formulates public policy."

When the public body has concluded its closed session, the open meeting minutes should state the time the public body reconvened in open session and, of course, any votes on matters discussed in the closed session must occur in an open meeting.

Decisions must be made during an open meeting, not the closed session – section 3(2) of the OMA requires that "[a]ll decisions of a public body shall be made at a meeting open to the public."⁶¹ Section 2(d) of the OMA defines "decision" to mean "a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy."⁶²

Avoid using the terms "closed session" and "executive session" interchangeably – we suggest that a public body not use the term "executive session" to refer to a "closed session." The term "executive session" does not appear in the OMA, but "closed session" does. "Executive session" is more of a private sector term and is often used to describe a private session of a board of directors, which is not limited as to purpose, where actions can be taken, and no minutes are recorded.

Staff and others may join the board in a closed session – a public body may rely upon its officers and employees for assistance when considering matters in a closed session. A public body may also request private citizens to assist, as appropriate, in its considerations.⁶³

Forcibly excluding persons from a closed session – a public body may, if necessary, exclude an unauthorized individual who intrudes upon a closed session by either (1) having the individual forcibly removed by a law enforcement officer, or (2) by recessing and removing the closed session to a new location.⁶⁴

⁶¹ MCL 15.263(2). *St Aubin v Ishpeming City Council*, 197 Mich App at 103. See also, OAG, 1977-1978, No 5262, at p 338-339 – the OMA prohibits a voting procedure at a public meeting which prevents citizens from knowing how members of the public body have voted and OAG, 1979-1980, No 5445, p 57 (February 22, 1979) – a public body may not take final action on any matter during a closed meeting.

⁶² MCL 15.262(d).

⁶³ OAG, 1979-1980, No 5532, p 324 (August 7, 1979).

⁶⁴ OAG, 1985-1986, No 6358, p 268 (April 29, 1986), citing *Regents of the Univ of Michigan v Washtenaw County Coalition Against Apartheid*, 97 Mich App 532; 296 NW2d 94 (1980).

PUBLIC ATTENDING OPEN MEETINGS

Excluding individuals – no one may be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.⁶⁵

Identifying public attendees – no one may be required to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attend a public meeting.⁶⁶

Building security at the meeting site may cause issues. Members of the public might object, based on the OMA, to signing in to gain access to the building where a public meeting is being held.⁶⁷ We, therefore, recommend that public bodies meet in facilities or areas not subject to public access restrictions.

If the public body wishes the members of the public to identify themselves at the meeting, we suggest the board chair announce something like this:

The Board would appreciate having the members of the public attending the meeting today identify themselves and mention if they would like the opportunity to speak during the public comment period. However, you do not need to give your name to attend this meeting. When the time comes to introduce yourself and you do not want to do so, just say pass.

Since speaking at the meeting is a step beyond "attending" the public meeting and the OMA provides that a person may address the public body "under rules established and recorded by the public body," the board may establish a rule requiring individuals to identify themselves if they wish to speak at a meeting.⁶⁸

Limiting public comment – a public body may adopt a rule imposing individual time limits for members of the public addressing the public body.⁶⁹ In order to carry out its responsibilities, the board can also consider establishing rules allowing the chairperson to encourage groups to designate one or more individuals to speak on their behalf to avoid cumulative comments. But a rule limiting the period of public comment may not be applied in a manner that denies a person the right to address the public body, such as by limiting all public comment to a half-hour period.⁷⁰

⁶⁵ MCL 15.263(6).

⁶⁶ MCL 15.263(4).

⁶⁷ In addition, "[a]ll meetings of a public body . . . shall be held in a place available to the general public." MCL 15.263(1).

⁶⁸ MCL 15.263(5). OAG, 1977-1978, No 5183, at p 34.

⁶⁹ OAG, 1977-1978, No 5332, p 536 (July 13, 1978). The rule must be duly adopted and recorded. OAG, 1977-1978, No 5183, at p 34.

⁷⁰ OAG No 5332 at p 538.

Meeting location – the OMA only requires that a meeting be held "in a place available to the general public;" it does not dictate that the meeting be held within the geographical limits of the public body's jurisdiction.⁷¹ However, if a meeting is held so far from the public which it serves that it would be difficult or inconvenient for its citizens to attend, the meeting may not be considered as being held at a place available to the general public. Whenever possible, the meeting should be held within the public body's geographical boundaries.

Timing of public comment – a public body has discretion under the OMA when to schedule public comment during the meeting.⁷² Thus, scheduling public comment at the beginning⁷³ or the end⁷⁴ of the meeting agenda does not violate the OMA. The public has no right to address the commission during its deliberations on a particular matter.⁷⁵

Taping and broadcasting – the right to attend a public meeting includes the right to tape-record, videotape, broadcast live on radio, and telecast live on television the proceedings of a public body at the public meeting.⁷⁶ A board may establish reasonable regulations governing the televising or filming by the electronic media of a hearing open to the public in order to minimize any disruption to the hearing, but it may not prohibit such coverage.⁷⁷ And the exercise of the right to tape-record, videotape, and broadcast public meetings may not be dependent upon the prior approval of the public body.⁷⁸

⁷¹ OAG, 1979-1980, No 5560, p 386 (September 13, 1979). Of course, local charter provisions or ordinances may impose geographical limits on public body meetings.

⁷² MCL 15.263(5).

⁷³ *Lysogorski v. Bridgeport Charter Typ*, 256 Mich App at 302.

⁷⁴ OAG, 1979-1980, No 5716, p 812 (June 4, 1980).

⁷⁵ OAG, 1977-1978, No 5310, p 465, 468 (June 7, 1978).

⁷⁶ MCL 15.263(1).

⁷⁷ OAG, 1987-1988, No 6499, p 280 (February 24, 1988).

⁷⁸ MCL 15.263(1).

MINUTES

What must be in the minutes – at a minimum, the minutes must show the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes must include all roll call votes taken at the meeting.⁷⁹ The OMA does not prohibit a public body from preparing a more detailed set of minutes of its public meetings if it chooses to do so.⁸⁰

When must the minutes be available – proposed minutes must be made available for public inspection within eight days after the applicable meeting. Approved minutes must be made available for public inspection within five days after the public body's approval.⁸¹

When must the minutes be approved – at the board's next meeting.⁸² Corrected minutes must show both the original entry and the correction (for example, using a "striketrough" word processing feature).

Closed session minutes – a separate set of minutes must be taken for closed sessions. While closed session minutes must be approved in an open meeting (with contents of the minutes kept confidential), the board may meet in closed session to consider approving the minutes.⁸³

Closed session minutes shall only be disclosed if required by a civil action filed under sections 10, 11, or 13 of the OMA.⁸⁴ The board secretary may furnish the minutes of a closed session of the body to a board member. A member's dissemination of closed session minutes to the public, however, is a violation of the OMA, and the member risks criminal prosecution and civil penalties.⁸⁵ An audiotape of a closed session meeting of a public body is part of the minutes of the session meeting and, thus, must be filed with the clerk of the public body for retention under the OMA.⁸⁶

Closed session minutes may be destroyed one year and one day *after approval of the minutes of the regular meeting at which the closed session occurred*.⁸⁷

⁷⁹ MCL 15.269(1).

⁸⁰ Informational letter to Representative Jack Brandenburg from Chief Deputy Attorney General Carol Isaacs dated May 8, 2003.

⁸¹ MCL 15.269(3).

⁸² MCL 15.269(1)

⁸³ OAG, 1985-1986, No 6365, p 288 (June 2, 1986). This, of course, triggers the need for more closed session minutes.

⁸⁴ MCL 15.270, 15.271, and 15.273; *Local Area Watch v Grand Rapids*, 262 Mich App 136, 143; 683 NW2d 745 (2004); OAG, 1985-1986 No 6353, p 255 (April 11, 1986).

⁸⁵ OAG, 1999-2000, No 7061, p 144 (August 31, 2000).

⁸⁶ *Kitchen v Ferndale City Council*, 253 Mich App 115; 654 NW2d 918 (2002).

⁸⁷ MCL 15.267(2).

Inadvertent omissions from the minutes – the OMA does not invalidate a decision due to a simple error in the minutes, such as inadvertently omitting the vote to go into closed session from a meeting's minutes.⁸⁸

⁸⁸ *Willis v Deerfield Twp*, 257 Mich App 541, 554; 669 NW2d 279 (2003).

PARLIAMENTARY PROCEDURES

Core principle – for the actions of a public body to be valid, they must be approved by a majority vote of a quorum, absent a controlling provision to the contrary, at a lawfully convened meeting.⁸⁹

QUORUM

Quorum – is the minimum number of members who must be present for a board to act. Any substantive action taken in the absence of a quorum is invalid. If a public body properly notices the meeting under OMA, but lacks a quorum when it actually convenes, the board members in attendance may receive reports and comments from the public or staff, ask questions, and comment on matters of interest.⁹⁰

What is the quorum? – look to the statute, charter provision, or ordinance creating the board. On the state level, the Legislature in recent years has taken care to set the board quorum in the statute itself. The statute will often provide that "a majority of the board appointed and serving shall constitute a quorum." For a 15-member board, that means eight would be the quorum, assuming you have 15 members appointed and serving. Without more in the statute, as few as five board members could then decide an issue, since they would be a majority of a quorum.⁹¹ But, be careful, recent statutes often provide that "voting upon action taken by the board shall be conducted by majority vote of the members appointed and serving." In that instance, the board needs at least eight favorable votes to act.⁹² The Legislature has a backstop statute, which provides that any provision that gives "joint authority to 3 or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority."⁹³

Disqualified members – a member of a public body who is disqualified due to a conflict of interest may not be counted to establish a quorum to consider that matter.⁹⁴

⁸⁹ OAG, 1979-1980, No 5808, p 1060 (October 30, 1980). Robert's Rules of Order Newly Revised (RRONR) (10th ed.), p 4. We cite to Robert's Rules in this Handbook as a leading guide on parliamentary procedures. This is not to imply that public bodies are, as a general rule, bound by Robert's Rules.

⁹⁰ OAG, 2009-2010, No 7235, p ___ (October 9, 2009).

⁹¹ See OAG, 1977-1978, No 5238, p 261 (November 2, 1977).

⁹² See OAG, 1979-1980, No 5808, at p 1061.

⁹³ MCL 8.3c. *Wood v Bd of Trustees of the Policemen and Firemen Retirement System of Detroit*, 108 Mich App 38, 43; 310 NW2d 39 (1981).

⁹⁴ OAG, 1981-1982, No 5916, p 218 (June 8, 1981). But see MCL 15.342a, which provides a procedure for disqualified public officials to vote in some limited circumstances where a quorum is otherwise lacking for a public body to conduct business.

Losing a quorum – even if a meeting begins with a quorum present, the board loses its right to conduct substantive action whenever the attendance of its members falls below the necessary quorum.⁹⁵

Resigned members – the common law rule in Michigan is that a public officer's resignation is not effective until it has been accepted by the appointing authority (who, at the state level, is usually the governor). Acceptance of the resignation may be manifested by formal acceptance or by the appointment of a successor.⁹⁶ Thus, until a resignation is formally accepted or a successor appointed, the resigning member must be considered "appointed and serving," be counted for quorum purposes, and be permitted to vote.

⁹⁵ RRONR (10th ed.), p 337-338.

⁹⁶ OAG, 1985-1986, No 6405, p 429, 430 (December 9, 1986), citing *Clark v Detroit Bd of Education*, 112 Mich 656; 71 NW 177 (1897).

VOTING

Abstain – means to refuse to vote. Thus, a board member does not "vote" to abstain. If a vote requires a majority or a certain percentage of the members present for approval, an abstention has the same effect as a "no" vote.⁹⁷

Adjourning the meeting - a presiding officer cannot arbitrarily adjourn a meeting without first calling for a vote of the members present.⁹⁸

Chairperson voting – perhaps as a spillover from the well-known constitutional rule that the vice president can only vote to break a tie in the United States Senate⁹⁹ or that a legislative presiding officer usually refrains from voting unless his or her vote affects the result,¹⁰⁰ some believe that a board's presiding officer (usually, the chairperson) can only vote to break a tie. However, absent a contrary controlling provision, all board members may vote on any matter coming before a board.¹⁰¹ A board's presiding officer can't vote on a motion and then, if the vote is tied, vote to break the tie unless explicitly authorized by law.¹⁰²

Expired-term members – look first to the statute, charter provision, or ordinance creating the public body. Many statutes provide that "a member shall serve until a successor is appointed." Absent a contrary controlling provision, the general rule is that a public officer holding over after his or her term expires may continue to act until a successor is appointed and qualified.¹⁰³

Imposing a greater voting requirement – where the Legislature has required only a majority vote to act, public bodies can't impose a greater voting requirement, such as requiring a two-thirds vote of its members to alter certain policies or bylaws.¹⁰⁴

Majority – means simply "more than half."¹⁰⁵ Thus, on a 15-member board, eight members constitute a majority.

⁹⁷ RRONR (10th ed.), p 390-395.

⁹⁸ *Dingwall v Detroit Common Council*, 82 Mich 568, 571; 46 NW 938 (1890).

⁹⁹ US Const, art I, §3.

¹⁰⁰ RRONR (10th ed.), p 392-393 – an assembly's presiding officer can break or create a tie vote.

¹⁰¹ See OAG, 1981-1982, No 6054, p 617 (April 14, 1982).

¹⁰² *Price v Oakfield Twp Bd*, 182 Mich 216; 148 NW 438 (1914).

¹⁰³ OAG, 1979-1980, No 5606, p 493 (December 13, 1979), citing *Greyhound Corp v Public Service Comm*, 360 Mich 578, 589-590; 104 NW2d 395 (1960). See also, *Cantwell v City of Southfield*, 95 Mich App 375; 290 NW2d 151 (1980).

¹⁰⁴ OAG, 1979-1980, No 5738, p 870 (July 14, 1980). OAG, 2001-2002, No 7081, p 27 (April 17, 2001), citing *Wagner v Ypsilanti Village Clerk*, 302 Mich 636; 5 NW2d 513 (1942).

¹⁰⁵ RRONR (10th ed.), p 387.

Proxy voting – the OMA requires that the deliberation and formulation of decisions effectuating public policy be conducted at open meetings.¹⁰⁶ Voting by proxy effectively forecloses any involvement by the absent board member in the board's public discussion and deliberations before the board votes on a matter effectuating public policy.¹⁰⁷ Without explicit statutory authority, this practice is not allowed.¹⁰⁸

Roll call vote – there is no bright line rule for conducting a roll call vote.¹⁰⁹ We suggest some rules of thumb. One, when a voice vote reveals a divided vote on the board (i.e., more than one no vote), a roll call vote should be conducted to remove doubt about the vote's count. Two, if you have board members participating by teleconference, a roll call will permit the secretary to accurately record the entire vote. Three, when the board is acting on matters of significance, such as, contracts of substantial size or decisions that will have multi-year impacts, a roll call vote is the best choice.

Round-robin voting – means approval for an action outside of a public meeting by passing around a sign-off sheet. This practice has its roots in the legislative committee practice of passing around a tally sheet to gain approval for discharging a bill without a committee meeting. "Round-robinning" defeats the public's right to be present and observe the manner in which the body's decisions are made and violates the letter and the spirit of the OMA.¹¹⁰

Rule of necessity – if a state agency's involvement in prior administrative or judicial proceedings involving a party could require recusal of all of its board members or enough of them to prevent a quorum from assembling, the common law rule of necessity precludes recusing all members, if the disqualification would leave the agency unable to adjudicate a question.¹¹¹ But the rule of necessity may not be applied to allow members of a public body to vote on matters that could benefit their private employer.¹¹²

¹⁰⁶ *Esperance v Chesterfield Twp*, 89 Mich App at 464, quoting *Wexford County Prosecutor v Pranger*, 83 Mich App 197; 268 NW2d 344 (1978).

¹⁰⁷ Robert's Rules concur: "Ordinarily it [proxy voting] should neither be allowed nor required, because proxy voting is incompatible with the essential characteristics of a deliberative assembly in which membership is individual, personal, and nontransferable." RRONR (10th ed.), p 414. The Michigan House and Senate do not allow proxy voting for their members.

¹⁰⁸ OAG, 2009-2010, No 7227, p __ (March 19, 2009). OAG, 1993-1994, No 6828, p 212 (December 22, 1994), citing *Dingvall*, 82 Mich at 571, where the city council counted and recorded the vote of absent members in appointing election inspectors. The Michigan Supreme Court rejected these appointments, ruling that "the counting of absent members and recording them as voting in the affirmative on all questions, was also an inexcusable outrage."

¹⁰⁹ "The fact that the Open Meetings Act prohibits secret balloting does not mean that all votes must be roll call votes." *Esperance v Chesterfield Twp*, 89 Mich App at 464 n 9. The OMA does provide that votes to go into closed session must be by roll call. MCL 15.267.

¹¹⁰ OAG, 1977-1978, No 5222, at p 218. See also, *Booth Newspapers*, 444 Mich at 229, which concluded that "round-the-horn" deliberations can constitute decisions under the OMA.

¹¹¹ *Champion's Auto Ferry, Inc v Michigan Public Service Comm*, 231 Mich App 699; 588 NW2d 153 (1998). The Court noted that the PSC members did not have any personal financial interest in the matter. *Id.* at 708-709.

¹¹² OAG, 1981-1982, No 6005, p 439, 446 (November 2, 1981). After OAG No 6005 was issued, the Legislature amended section 2a of 1973 PA 196, MCL 15.342a, to provide a procedure for voting by public officials in some limited circumstances where a quorum is otherwise lacking for a public entity to conduct business.

Secret ballot – the OMA requires that all decisions and deliberations of a public body must be made at an open meeting and the term "decision" is defined to include voting.¹¹³ The OMA prohibits a "voting procedure" at a public meeting that prevents citizens from knowing how members of a public body have voted."¹¹⁴ Obviously, the use of a secret ballot process would prevent this transparency. All board decisions subject to the OMA must be made by a public vote at an open meeting.¹¹⁵

Tie vote – a tie vote on a motion means that the motion did not gain a majority. Thus, the motion fails.¹¹⁶

¹¹³ See MCL 15.262(d) and 15.263(2) and (3).

¹¹⁴ OAG, 1977-1978, No 5262, at p 338-339.

¹¹⁵ *Esperance*, 89 Mich App at 464.

¹¹⁶ *Rouse v Rogers*, 267 Mich 338; 255 NW 203 (1934). RRONR (10th ed.), p 392.

