



SENATE BILL No. 923

March 12, 1996, Introduced by Senators HOFFMAN, STILLE, BENNETT, SCHUETTE, GOUGEON and SHUGARS and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans relating to the designation and treatment of brownfield redevelopment zones; to promote the revitalization of environmentally distressed areas; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "brownfield redevelopment financing act".

1 Sec. 2. As used in this act:

2 (a) "Additional response activities" means response
3 activities proposed as part of a brownfield plan that are in
4 addition to baseline environmental assessment activities and due
5 care activities for a facility.

6 (b) "Authority" means a brownfield redevelopment authority
7 created under this act.

8 (c) "Baseline environmental assessment" means that term as
9 defined in section 20101 of part 201 (environmental remediation)
10 of the natural resources and environmental protection act, Act
11 No. 451 of the Public Acts of 1994, being section 324.20101 of
12 the Michigan Compiled Laws.

13 (d) "Baseline environmental assessment activities" means
14 those response activities identified as part of a brownfield plan
15 that are necessary to complete a baseline environmental assess-
16 ment for an eligible property in the brownfield plan.

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

18 (f) "Brownfield plan" means a plan that meets the require-
19 ments of section 13 and is adopted under section 14.

20 (g) "Captured assessed value" means the amount in 1 year by
21 which the current assessed value of a parcel of eligible property
22 subject to a brownfield plan and all personal property located on
23 that property, including the assessed value of the property for
24 which specific local taxes are paid in lieu of property taxes,
25 exceeds the initial assessed value of that eligible property and
26 all personal property located on that property.

1 (h) "Chief executive officer" means the mayor of a city, the
2 village manager of a village, the township supervisor of a
3 township, and the county executive of a county or, if the county
4 does not have an elected county executive, the chairperson of the
5 county board of commissioners.

6 (i) "Department" means the department of environmental
7 quality.

8 (j) "Due care activities" means those response activities
9 identified as part of a brownfield plan that are necessary to
10 allow the owner or operator of an eligible property in the plan
11 to comply with the requirements of section 20107a of part 201 of
12 Act No. 451 of the Public Acts of 1994, being section 324.20107a
13 of the Michigan Compiled Laws.

14 (k) "Eligible activities" means 1 or more of the following:

15 (i) Baseline environmental assessment activities.

16 (ii) Due care activities.

17 (iii) Additional response activities.

18 (l) "Eligible property" means a facility as that term is
19 defined in section 20101 of part 201 of Act No. 451 of the Public
20 Acts of 1994, being section 324.20101 of the Michigan Compiled
21 Laws.

22 (m) "Fiscal year" means the fiscal year of the authority.

23 (n) "Governing body" means the elected body having legisla-
24 tive powers of a municipality creating an authority under this
25 act.

26 (o) "Initial assessed value" means the assessed value, as
27 equalized, of a parcel of eligible property identified in the

1 brownfield plan and all personal property located on that
2 property at the time the resolution adding that eligible property
3 in the brownfield plan is adopted, as shown by the most recent
4 assessment roll for which equalization has been completed at the
5 time the resolution is adopted. Property exempt from taxation at
6 the time the initial assessed value is determined shall be
7 included with the initial assessed value of zero. Property for
8 which a specific local tax is paid in lieu of property tax shall
9 not be considered exempt from taxation. The state tax commission
10 shall prescribe the method for calculating the initial assessed
11 value of property for which a specific local tax was paid in lieu
12 of property tax.

13 (p) "Local taxes" means all taxes levied other than taxes
14 levied for school operating purposes.

15 (q) "Municipality" means a city, a village, a township in
16 those areas of the township outside of a village or upon the con-
17 currence by resolution of the village in which the zone would be
18 located, or a county with the concurrence by resolution of the
19 city or village or township in which the zone would be located.

20 (r) "Response activity" means that term as defined in
21 section 20101 of part 201 of Act No. 451 of the Public Acts of
22 1994, being section 324.20101 of the Michigan Compiled Laws.

23 (s) "Specific local taxes" means a tax levied under Act
24 No. 198 of the Public Acts of 1974, being sections 207.551 to
25 207.572 of the Michigan Compiled Laws; the commercial redevelop-
26 ment act, Act No. 255 of the Public Acts of 1978, being sections
27 207.651 to 207.668 of the Michigan Compiled Laws; the enterprise

1 zone act, Act No. 224 of the Public Acts of 1985, being sections
2 125.2101 to 125.2123 of the Michigan Compiled Laws; Act No. 189
3 of the Public Acts of 1953, being sections 211.181 to 211.182 of
4 the Michigan Compiled Laws; or the technology park development
5 act, Act No. 385 of the Public Acts of 1984, being sections
6 207.701 to 207.718 of the Michigan Compiled Laws.

7 (t) "Tax increment revenues" means the amount of ad valorem
8 property taxes and specific local taxes attributable to the
9 application of the levy of all taxing jurisdictions upon the cap-
10 tured assessed value of each parcel of eligible property subject
11 to a brownfield plan and personal property located on that
12 property. Tax increment revenues exclude ad valorem property
13 taxes specifically levied for the payment of principal of and
14 interest on either obligations approved by the electors or obli-
15 gations pledging the unlimited taxing power of the local govern-
16 mental unit, and specific local taxes attributable to those ad
17 valorem property taxes. Tax increment revenues attributable to
18 eligible property also exclude the amount of ad valorem property
19 taxes or specific local taxes subject to capture by a downtown
20 development authority, tax increment finance authority, or local
21 development finance authority if those taxes were subject to cap-
22 ture by these other authorities on the date that eligible prop-
23 erty became subject to a brownfield plan under this act.

24 (u) "Taxes levied for school operating purposes" means taxes
25 levied by a local school district for operating purposes and
26 taxes levied under the state education tax act, Act No. 331 of

1 the Public Acts of 1993, being sections 211.901 to 211.906 of the
2 Michigan Compiled Laws.

3 (v) "Work plan or remedial action plan" means a plan that
4 describes both the work to be done to complete an eligible activ-
5 ity and the associated costs of that work.

6 (w) "Zone" means a brownfield redevelopment zone designated
7 under section 4.

8 Sec. 3. (1) A municipality may establish 1 or more
9 authorities. An authority shall exercise its powers in its zone
10 or zones.

11 (2) The authority shall be a public body corporate that may
12 sue and be sued in a court of competent jurisdiction. The
13 authority possesses all the powers necessary to carry out the
14 purpose of its incorporation. The enumeration of a power in this
15 act is not a limitation upon the general powers of the
16 authority. The powers granted in this act to an authority may be
17 exercised whether or not bonds are issued by the authority.

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

22 (2) In the resolution of intent, the governing body shall
23 set a date for holding a public hearing on the adoption of a pro-
24 posed resolution creating the authority and designating the
25 boundaries of the zone. Notice of the public hearing shall be
26 published twice in a newspaper of general circulation in the
27 municipality, not less than 20 nor more than 40 days before the

1 date of the hearing. The notice shall state the date, time, and
2 place of the hearing, and shall describe the boundaries of the
3 proposed zone. At that hearing, a citizen, taxpayer, or property
4 owner of the municipality has the right to be heard in regard to
5 the establishment of the authority and the boundaries of the pro-
6 posed zone. The governing body of the municipality shall not
7 incorporate land into the zone not included in the description
8 contained in the notice of public hearing, but it may eliminate
9 described lands from the zone in the final determination of the
10 boundaries without additional notice.

11 (3) After the public hearing, if the governing body intends
12 to proceed with the establishment of the authority, the governing
13 body shall adopt, by majority vote of its members elected and
14 serving, a resolution establishing the authority and designating
15 the boundaries of the zone within which the authority shall exer-
16 cise its powers. The adoption of the resolution is subject to
17 all applicable statutory or charter provisions with respect to
18 the approval or disapproval by the chief executive or other offi-
19 cer of the municipality and the adoption of a resolution over his
20 or her veto. This resolution shall be filed with the secretary
21 of state promptly after its adoption.

22 (4) The governing body may alter or amend the boundaries of
23 the zone to include or exclude lands from the zone in accordance
24 with the same requirements prescribed for adopting the resolution
25 creating the authority.

26 (5) The proceedings establishing an authority shall be
27 presumptively valid unless contested in a court of competent

1 jurisdiction within 60 days after the filing of the resolution
2 with the secretary of state.

3 (6) The exercise by an authority of the powers conferred by
4 this act shall be considered to be an essential governmental
5 function and benefit to, and a legitimate public purpose of, the
6 state, the authority, and the municipality or units.

7 Sec. 5. (1) Each authority shall be under the supervision
8 and control of a board chosen by the governing body. The govern-
9 ing body may by majority vote designate 1 of the following to
10 constitute the board:

11 (a) The board of directors of the economic development cor-
12 poration of the municipality established under the economic
13 development corporations act, Act No. 338 of the Public Acts of
14 1974, being sections 125.1601 to 125.1636 of the Michigan
15 Compiled Laws.

16 (b) The trustees of the board of a downtown development
17 authority established under Act No. 197 of the Public Acts of
18 1975, being sections 125.1651 to 125.1681 of the Michigan
19 Compiled Laws, if the zone includes an area within the boundaries
20 of the district of that downtown development authority.

21 (c) The trustees of the board of a tax increment financing
22 authority established under the tax increment finance authority
23 act, Act No. 450 of the Public Acts of 1980, being sections
24 125.1801 to 125.1830 of the Michigan Compiled Laws, if the zone
25 includes an area within the boundaries of the district of that
26 tax increment financing authority.

1 (d) The trustees of the board of a local development
2 financing authority established under the local development
3 financing act, Act No. 281 of the Public Acts of 1986, being sec-
4 tions 125.2151 to 125.2174 of the Michigan Compiled Laws, if the
5 zone includes an area within the boundaries of the district of
6 that local development financing authority.

7 (e) Not less than 5 nor more than 9 persons appointed by the
8 chief executive officer of the municipality subject to the
9 approval of the governing body. Of the initial members appoint-
10 ed, an equal number, as near as practicable, shall be appointed
11 for 1 year, 2 years, and 3 years. A member shall hold office
12 until the member's successor is appointed and qualified.
13 Thereafter, each member shall serve for a term of 3 years. An
14 appointment to fill a vacancy shall be made by the chief execu-
15 tive officer of the municipality for the unexpired term only.
16 Members of the board shall serve without compensation, but shall
17 be reimbursed for reasonable actual and necessary expenses.

18 (2) The members shall elect 1 of their membership as chair-
19 person and another as vice-chairperson. The members may desig-
20 nate and elect other officers of the board as they consider
21 necessary.

22 (3) Before assuming the duties of office, a member shall
23 qualify by taking and subscribing to the oath of office provided
24 in section 1 of article XI of the state constitution of 1963.

25 (4) The board shall adopt rules governing its procedure and
26 the holding of regular meetings, subject to the approval of the
27 governing body. Special meetings may be held when called in the

1 manner provided in the rules of the board. Meetings of the board
2 shall be open to the public, in accordance with the open meetings
3 act, Act No. 267 of the Public Acts of 1976, being sections
4 15.261 to 15.275 of the Michigan Compiled Laws.

5 (5) After notice and an opportunity to be heard, a member of
6 the board appointed under subsection (1)(e) may be removed before
7 the expiration of his or her term for cause by the governing
8 body. Removal of a member is subject to review by the circuit
9 court.

10 (6) All financial records of an authority shall be open to
11 the public under the freedom of information act, Act No. 442 of
12 the Public Acts of 1976, being sections 15.231 to 15.246 of the
13 Michigan Compiled Laws.

14 (7) A majority of the members of the board appointed and
15 serving shall constitute a quorum. Action may be taken by the
16 board at a meeting upon a vote of the majority of the members
17 present.

18 Sec. 6. (1) The board may employ and fix the compensation
19 of a director of the authority, subject to the approval of the
20 governing body creating the authority. The director shall serve
21 at the pleasure of the board. A member of the board is not eli-
22 gible to hold the position of director. Before entering upon the
23 duties of the office, the director shall take and subscribe to
24 the oath of office provided in section 1 of article XI of the
25 state constitution of 1963 and shall furnish bond by posting a
26 bond in the sum specified in the resolution establishing the
27 authority. The bond shall be payable to the authority for the

1 use and benefit of the authority, approved by the board, and
2 filed with the clerk of the municipality. The premium on the
3 bond shall be considered an operating expense of the authority,
4 payable from funds available to the authority for expenses of
5 operation. The director shall be the chief officer of the
6 authority. Subject to the approval of the board, the director
7 shall supervise and be responsible for the preparation of plans
8 and the performance of the functions of the authority in the
9 manner authorized by this act. The director shall attend the
10 meetings of the board and shall render to the board and to the
11 governing body a regular report covering the activities and
12 financial condition of the authority. If the director is absent
13 or disabled, the board may designate a qualified person as acting
14 director to perform the duties of the office. Before entering
15 upon the duties of the office, the acting director shall take and
16 subscribe to the oath of office referenced in this subsection and
17 furnish bond as required of the director. The director shall
18 furnish the board with information or reports governing the oper-
19 ation of the authority, as the board requires.

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

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

7 (4) The board may employ and retain personnel and consul-
8 tants as considered necessary by the board, including legal coun-
9 sel to advise the board in the proper performance of its duties
10 and to represent the authority in actions brought by or against
11 the authority.

12 (5) Upon request of the authority, the municipality shall
13 provide assistance to the authority in the performance of its
14 powers and duties.

15 (6) The employees of an authority may be eligible to partic-
16 ipate in municipal retirement and insurance programs of the
17 municipality as if they were civil service employees on the same
18 basis as civil service employees.

19 Sec. 7. (1) An authority may do 1 or more of the
20 following:

21 (a) Adopt, amend, and repeal bylaws for the regulation of
22 its affairs and the conduct of its business.

23 (b) Incur and expend funds to pay, or reimburse a public or
24 private person for, costs of eligible activities attributable to
25 an eligible property.

1 (c) As approved by the municipality, incur costs and expend
2 funds from the local site remediation revolving fund created
3 under section 8 for purposes authorized in that section.

4 (d) Make and enter into contracts necessary or incidental to
5 the exercise of its powers and the performance of its duties,
6 including but not limited to lease purchase agreements, land con-
7 tracts, installment sales agreements, and loan agreements.

8 (e) On terms and conditions and in a manner and for consid-
9 eration the authority considers proper or for no monetary consid-
10 eration, own, mortgage, convey, or otherwise dispose of, or lease
11 as lessor or lessee, land and other property, real or personal,
12 or rights or interests in the property, that the authority deter-
13 mines are reasonably necessary to achieve the purposes of this
14 act, and grant or acquire licenses, easements, and options with
15 respect to the property.

16 (f) Maintain, repair, or operate all devices necessary to
17 ensure continued eligible activities on eligible property.

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

20 (h) Incur costs in connection with the performance of its
21 authorized functions, including, but not limited to, administra-
22 tive costs and architect, engineer, legal, or accounting fees.

23 (i) Study, develop, and prepare the reports or plans the
24 authority considers necessary to assist it in the exercise of its
25 powers under this act and to monitor and evaluate the progress
26 made in the development of the zone.

1 (j) Procure insurance against loss in connection with the
2 authority's property, assets, or activities.

3 (k) Invest the money of the authority at the authority's
4 discretion in obligations determined proper by the authority, and
5 name and use depositories for its money.

6 (l) Make loans, participate in the making of loans, under-
7 take commitments to make loans and mortgages, buy and sell loans
8 and mortgages at public or private sale, rewrite loans and mort-
9 gages, discharge loans and mortgages, foreclose on a mortgage,
10 commence an action to protect or enforce a right conferred upon
11 the authority by a law, mortgage, loan, contract, or other agree-
12 ment, bid for and purchase property that was the subject of the
13 mortgage at a foreclosure or other sale, acquire and take posses-
14 sion of the property and in that event compute, administer, pay
15 the principal and interest on obligations incurred in connection
16 with that property, and dispose of and otherwise deal with the
17 property, in a manner as may be necessary or desirable to protect
18 the interests of the authority.

19 (m) Borrow money and issue its notes under the municipal
20 finance act, Act No. 202 of the Public Acts of 1943, being sec-
21 tions 131.1 to 139.3 of the Michigan Compiled Laws, in anticipa-
22 tion of collection of tax increment revenues.

23 (n) Do all other things necessary or convenient to achieve
24 the objectives and purposes of the authority, this act, or other
25 laws that relate to the purposes and responsibilities of the
26 authority.

1 (2) The authority shall determine the captured assessed
2 value of each parcel of eligible property that is included in a
3 zone. The captured assessed value of a parcel shall not be less
4 than zero.

5 Sec. 8. A municipality that has established a renaissance
6 zone under the Michigan renaissance zone act may establish a
7 local site remediation revolving fund. Funds available under
8 section 13(5) for deposit in the local site remediation revolving
9 fund and all money appropriated or otherwise made available from
10 public or private loans or grants shall be deposited in the local
11 site remediation revolving fund. As approved by the municipali-
12 ty, the local site remediation revolving fund may be used only to
13 pay the costs of eligible activities on eligible property that is
14 located within the zone and is located within a renaissance
15 zone.

16 Sec. 9. The authority shall be considered an instrumental-
17 ity of a political subdivision for purposes of Act No. 227 of the
18 Public Acts of 1972, being sections 213.321 to 213.332 of the
19 Michigan Compiled Laws.

20 Sec. 10. A municipality may take private property under the
21 uniform condemnation procedures act, Act No. 87 of the Public
22 Acts of 1980, being sections 213.51 to 213.77 of the Michigan
23 Compiled Laws, for the purpose of transfer to the authority, and
24 may transfer the property to the authority for use as authorized
25 in the brownfield plan, on terms and conditions it considers
26 appropriate. The taking, transfer, and use shall be considered
27 necessary for public purposes and for the benefit of the public.

1 Sec. 11. The activities of the authority shall be financed
2 from 1 or more of the following sources:

3 (a) Contributions, contractual payments, or appropriations
4 to the authority for the performance of its functions or to pay
5 the costs of a brownfield plan of the authority.

6 (b) Revenues from a property, building, or facility owned,
7 leased, licensed, or operated by the authority or under its con-
8 trol, subject to the limitations imposed upon the authority by
9 trusts or other agreements.

10 (c) Tax increment revenues received under a brownfield plan
11 established under sections 13 and 14.

12 (d) Proceeds of tax increment bonds issued under section
13 15.

14 (e) Proceeds of revenue bonds issued under section 12.

15 (f) As approved by the municipality, revenue available in
16 the local site remediation revolving fund for the costs described
17 in section 8.

18 (g) Money obtained from all other sources approved by the
19 governing body of the municipality or otherwise authorized by law
20 for use by the authority or the municipality to finance activi-
21 ties authorized under this act.

22 Sec. 12. (1) The authority may borrow money and issue its
23 negotiable revenue bonds or notes to finance all or part of the
24 costs of eligible activities or of another activity of the
25 authority under this act, or to refund or refund in advance bonds
26 or notes issued under this section. The costs that may be
27 financed by the issuance of revenue bonds or notes may include

1 the costs of purchasing, acquiring, constructing, improving,
2 enlarging, extending, or repairing property in connection with an
3 activity authorized under this act; engineering, architectural,
4 legal, accounting, or financial expenses; the costs necessary or
5 incidental to the borrowing of money; interest on the bonds or
6 notes during the period of construction; a reserve for payment of
7 principal and interest on the bonds or notes; and a reserve for
8 operation and maintenance until sufficient revenues have
9 developed. The authority may secure the bonds and notes by mort-
10 gage, assignment, or pledge of the property and all money, reve-
11 nues, or income received in connection with the property.

12 (2) A pledge made by the authority shall be valid and bind-
13 ing from the time the pledge is made. The money or property
14 pledged by the authority immediately shall be subject to the lien
15 of the pledge without a physical delivery, filing, or further
16 act. The lien of such a pledge shall be valid and binding as
17 against parties having claims in tort, contract, or otherwise
18 against the authority, irrespective of whether the parties have
19 notice of the lien. Filing of the resolution, the trust agree-
20 ment, or another instrument by which a pledge is created is not
21 required.

22 (3) Bonds or notes issued under this section shall be exempt
23 from all taxation in this state except inheritance and transfer
24 taxes, and the interest on the bonds or notes shall be exempt
25 from all taxation in this state, notwithstanding that the inter-
26 est may be subject to federal income tax.

1 (4) Unless otherwise provided by a majority vote of the
2 members of its governing body, the municipality shall not be
3 liable on bonds or notes of the authority issued under this sec-
4 tion and the bonds or notes shall not be a debt of the
5 municipality.

6 (5) The bonds and notes of the authority may be invested in
7 by the state treasurer and all other public officers, state agen-
8 cies and political subdivisions, insurance companies, banks, sav-
9 ings and loan associations, investment companies, and fiduciaries
10 and trustees, and may be deposited with and received by the state
11 treasurer and all other public officers and the agencies and
12 political subdivisions of this state for all purposes for which
13 the deposit of bonds or notes is authorized. The authority
14 granted by this section is supplemental and in addition to all
15 other authority granted by law.

16 Sec. 13. (1) Subject to section 17, the board may implement
17 a brownfield plan. The brownfield plan may apply to 1 or more
18 parcels of eligible property within the zone whether or not those
19 parcels of eligible property are contiguous and may be amended to
20 apply to additional parcels of eligible property within the
21 zone. If more than 1 parcel of eligible property is included
22 within the plan, the tax increment revenues under the plan shall
23 be determined individually for each parcel of eligible property.
24 Each plan shall be approved by the governing body of the munici-
25 pality and shall contain all of the following:

26 (a) A description of the costs of the plan intended to be
27 paid for with the tax increment revenues.

1 (b) An estimate of the captured assessed value and tax
2 increment revenues for each year of the plan from each parcel of
3 eligible property and in aggregate. The plan may provide for the
4 use of part or all of the captured assessed value, but the por-
5 tion intended to be used shall be clearly stated in the plan.
6 The plan shall not provide either for an exclusion from captured
7 assessed value of a portion of the captured assessed value or for
8 an exclusion of the tax levy of 1 or more taxing jurisdictions
9 unless the tax levy is excluded from tax increment revenues in
10 section 2(t).

11 (c) The method by which the costs of the plan will be
12 financed, including a description of any advances made or antici-
13 pated to be made for the costs of the plan from the
14 municipality.

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

17 (e) The duration of the brownfield plan, which shall not
18 exceed the lesser of the period authorized under subsections (4)
19 and (5) or 20 years.

20 (f) A legal description and tax identification number of
21 each parcel of eligible property to which the plan applies.

22 (g) Estimates of the number of persons residing on each eli-
23 gible property to which the plan applies and the number of fami-
24 lies and individuals to be displaced. If occupied residences are
25 designated for acquisition and clearance by the authority, the
26 plan shall include a survey of the persons to be displaced,
27 including their income and racial composition, a statistical

1 description of the housing supply in the community, including the
2 number of private and public units in existence or under con-
3 struction, the condition of those in existence, the number of
4 owner-occupied and renter-occupied units, the annual rate of
5 turnover of the various types of housing and the range of rents
6 and sale prices, an estimate of the total demand for housing in
7 the community, and the estimated capacity of private and public
8 housing available to displaced families and individuals.

9 (h) A plan for establishing priority for the relocation of
10 persons displaced by implementation of the plan.

11 (i) Provision for the costs of relocating persons displaced
12 by implementation of the plan, and financial assistance and reim-
13 bursement of expenses, including litigation expenses and expenses
14 incident to the transfer of title, in accordance with the stan-
15 dards and provisions of the federal uniform relocation assistance
16 and real property acquisition policies act of 1970, Public Law
17 91-646, 84 Stat. 1894.

18 (j) A strategy for compliance with Act No. 227 of the Public
19 Acts of 1972, being sections 213.321 to 213.332 of the Michigan
20 Compiled Laws.

21 (k) Current ownership information for each eligible property
22 and a summary of available information on proposed future
23 ownership.

24 (l) A summary of available information on the historical and
25 current use of each eligible property, including a brief summary
26 of site conditions and what is known about environmental
27 contamination as that term is defined in section 20101 of

1 part 201 (environmental remediation) of the natural resources and
2 environmental protection act, Act No. 451 of the Public Acts of
3 1994, being section 324.20101 of the Michigan Compiled Laws.

4 (m) Existing and proposed future zoning for each eligible
5 property.

6 (n) A brief summary of the proposed redevelopment and future
7 use for each eligible property.

8 (o) A summary of each of the eligible activities that are
9 proposed for each eligible property.

10 (p) Other material that the authority or governing body con-
11 siders pertinent.

12 (2) The percentage of taxes levied on a parcel of eligible
13 property for school operating expenses that is captured and used
14 under a brownfield plan and all tax increment finance plans under
15 Act No. 197 of the Public Acts of 1975, being sections 125.1651
16 to 125.1681 of the Michigan Compiled Laws, the tax increment
17 finance authority act, Act No. 450 of the Public Acts of 1980,
18 being sections 125.1801 to 125.1830 of the Michigan Compiled
19 Laws, or the local development financing act, Act No. 281 of the
20 Public Acts of 1986, being sections 125.2151 to 125.2174 of the
21 Michigan Compiled Laws, shall not be greater than the combination
22 of the plans' percentage capture and use of taxes levied for all
23 other purposes.

24 (3) Except as provided in subsection (5), tax increment rev-
25 enues related to a brownfield plan shall be used only for costs
26 of eligible activities attributable to the eligible property, the

1 captured assessed value of which produces the tax increment
2 revenues.

3 (4) Except as provided in subsection (5), a brownfield plan
4 shall not authorize the capture of tax increment revenue eligible
5 property after the year in which the total amount of tax incre-
6 ment revenues captured is equal to the sum of the costs of eligi-
7 ble activities attributable to the eligible property and the cost
8 of the department's review of the work plan or remedial action
9 plan.

10 (5) If a zone includes eligible property that is located in
11 a renaissance zone under the Michigan renaissance zone act, a
12 brownfield plan may authorize the capture of tax increment reve-
13 nue from eligible property for not more than 5 years after the
14 year in which the total amount of tax increment revenues is equal
15 to the sum of the costs described in subsection (4). Excess rev-
16 enues captured under this subsection shall be deposited in the
17 local site remediation revolving fund created under section 8.
18 Subject to approval by the municipality, an authority may use
19 excess revenues described in this subsection for eligible activi-
20 ties on eligible property other than the eligible property whose
21 captured assessed value produced the tax increment revenue if the
22 property on which the activities will occur is within the zone
23 and the renaissance zone.

24 (6) Costs of eligible activities attributable to a parcel of
25 eligible property include all costs that are necessary or related
26 to a release from the property, whether or not those costs are
27 expended for other property.

1 (7) Tax revenues that are captured for the purpose of paying
2 the costs of eligible activities, excluding revenues described in
3 this section that are deposited in a fund under section 8, may be
4 recovered from a person who is liable for the costs of eligible
5 activities at an eligible property. The state or a municipality
6 may undertake cost recovery for tax increment revenues captured.
7 Before a municipality may institute a cost recovery action, it
8 must provide the state with 120 days' notice and shall coordinate
9 its cost recovery actions with a related state action if
10 requested to do so.

11 (8) Approval of the brownfield plan shall be in accordance
12 with the notice and approval provisions of this section and
13 section 14.

14 (9) Before approving a brownfield plan for any eligible
15 property, the governing body shall provide notice and a reason-
16 able opportunity to the taxing jurisdictions levying taxes
17 subject to capture to express their views and recommendations
18 regarding the plan. The authority shall fully inform the taxing
19 jurisdictions about the fiscal and economic implications of the
20 proposed plan. The authority shall not enter into agreements
21 with the taxing jurisdictions and the governing body of the
22 municipality in which the zone is located to share a portion of
23 the captured assessed value of the zone. Upon adoption of the
24 plan, the collection and transmission of the amount of tax incre-
25 ment revenues, as specified in this act, shall be binding on all
26 taxing units levying ad valorem property taxes or specific local
27 taxes against property located in the zone.

1 Sec. 14. (1) Not less than 10 days after notice of the
2 proposed brownfield plan is provided to the taxing jurisdictions,
3 the governing body shall determine whether the plan constitutes a
4 public purpose. If the governing body determines that the plan
5 does not constitute a public purpose, the governing body shall
6 reject the plan. If the governing body determines that the plan
7 constitutes a public purpose, the governing body may then approve
8 or reject the plan, or approve it with modification, by resolu-
9 tion, based on the following considerations:

10 (a) Whether the plan meets the requirements of section 13.

11 (b) Whether the proposed method of financing the costs of
12 eligible activities is feasible and the authority has the ability
13 to arrange the financing.

14 (c) Whether the costs of eligible activities proposed are
15 reasonable and necessary to carry out the purposes of this act.

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

18 (2) Except as provided in this subsection, amendments to an
19 approved brownfield plan must be submitted by the authority to
20 the governing body for approval or rejection following the same
21 notice necessary for approval or rejection of the original plan.
22 Notice is not required for revisions in the estimates of captured
23 assessed value or tax increment revenues.

24 (3) The procedure, adequacy of notice, and findings with
25 respect to purpose and captured assessed value shall be presump-
26 tively valid unless contested in a court of competent
27 jurisdiction within 60 days after adoption of the resolution

1 adopting the brownfield plan. An amendment, adopted by
2 resolution, to a conclusive plan shall likewise be conclusive
3 unless contested within 60 days after adoption of the resolution
4 adopting the amendment. If a resolution adopting an amendment to
5 the plan is contested, the original resolution adopting the plan
6 is not therefore open to contest.

7 Sec. 15. (1) The municipal and county treasurers shall
8 transmit to the authority tax increment revenues.

9 (2) The authority shall expend the tax increment revenues
10 received only in accordance with the brownfield plan. All sur-
11 plus funds not deposited in the local site remediation revolving
12 fund of the authority under section 13(5) shall revert propor-
13 tionately to the respective taxing bodies. The governing body
14 may abolish the plan when it finds that the purposes for which
15 the plan was established are accomplished. However, the plan
16 shall not be abolished until the principal and interest on bonds
17 issued under section 16 and all other obligations to which the
18 tax increment revenues are pledged have been paid or funds suffi-
19 cient to make the payment have been segregated.

20 (3) The authority shall submit annually to the governing
21 body and the state tax commission a financial report on the
22 status of the activities of the authority. The report shall
23 include all of the following:

24 (a) The amount and source of tax increment revenues
25 received.

26 (b) The amount and purpose of expenditures of tax increment
27 revenues.

1 (c) The amount of principal and interest on all outstanding
2 bonded indebtedness.

3 (d) The initial assessed value of all eligible property
4 subject to the brownfield plan.

5 (e) The captured assessed value realized by the authority.

6 (f) All additional information that the governing body or
7 the state tax commission considers necessary.

8 Sec. 16. (1) By resolution of its board, the authority may
9 authorize, issue, and sell its tax increment bonds and notes,
10 subject to the limitations set forth in this section, to finance
11 the purposes of a brownfield plan. The bonds or notes shall
12 mature in not more than 30 years and shall bear interest and be
13 sold and be payable in the manner and upon the terms and condi-
14 tions determined, or within the parameters specified, by the
15 authority in the resolution authorizing issuance of the bonds or
16 notes. The bonds or notes may include capitalized interest and a
17 sum to provide a reasonable reserve for payment of principal and
18 interest on the bonds or notes. Except for the requirement of
19 the municipal finance act, Act No. 202 of the Public Acts of
20 1943, being sections 131.1 to 139.3 of the Michigan Compiled
21 Laws, that the authority receive the approval or an exception
22 from approval from the department of treasury prior to the issu-
23 ance of bonds under this subsection, the terms of Act No. 202 of
24 the Public Acts of 1943 shall not apply to bonds issued under
25 this section. The resolution authorizing the bonds shall create
26 a lien on the tax increment revenues and other revenues pledged
27 by the resolution that shall be a statutory lien and shall be a

1 first lien subject only to liens previously created. The
2 resolution may provide the terms upon which additional bonds or
3 notes may be issued of equal standing and parity of lien as to
4 the tax increment revenues and other revenues pledged under the
5 resolution.

6 (2) The municipality, by majority vote of the members of its
7 governing body, may pledge its full faith and credit for the pay-
8 ment of the principal of and interest on the authority's tax
9 increment bonds or notes.

10 (3) The bonds or notes issued under this section shall be
11 secured by 1 or more sources of revenue identified in section 7
12 as sources of financing of activities of the authority, as pro-
13 vided by resolution of the authority.

14 (4) The bonds and notes of the authority may be invested in
15 by the state treasurer and all other public officers, state agen-
16 cies and political subdivisions, insurance companies, banks, sav-
17 ings and loan associations, investment companies, and fiduciaries
18 and trustees, and may be deposited with and received by the state
19 treasurer and all other public officers and the agencies and
20 political subdivisions of this state for 1 or more of the pur-
21 poses for which the deposit of bonds or notes is authorized. The
22 authority granted by this section is supplemental and in addition
23 to all other authority granted by law.

24 Sec. 17. (1) An authority shall not do either of the fol-
25 lowing unless the eligible activities to be conducted are consis-
26 tent with a work plan or remedial action plan that has been

1 approved by the department under this section after the effective
2 date of this act:

3 (a) Capture taxes levied for school operating purposes from
4 an eligible property.

5 (b) Use funds from a local site remediation revolving fund
6 that are derived from taxes levied for school operating
7 purposes.

8 (2) To seek department approval of a brownfield plan, the
9 authority shall submit a copy of the plan and a separate work
10 plan or remedial action plan, or part of a work plan or remedial
11 action plan, for each eligible activity to be undertaken at each
12 eligible property. The department may consider whether the costs
13 are reasonable and necessary in its decision to approve or reject
14 a work plan or remedial action plan.

15 (3) It shall be in the sole discretion of an authority to
16 propose to undertake additional response activities at an eligi-
17 ble property under a brownfield plan. The department shall not
18 reject a work plan or remedial action plan for either baseline
19 environmental assessment activities or due care activities on the
20 basis that it does not include additional response activities
21 unless the department determines that the response activities are
22 necessary to complete the baseline environmental assessment
23 activities or the due care activities.

24 (4) The department may consider the level of risk reduction
25 that will be accomplished by the additional response activities
26 in determining whether to approve or reject a work plan or

1 remedial action plan that includes additional response
2 activities.

3 (5) The department's approval or rejection of a work plan or
4 remedial action plan for additional response activities is final
5 and cannot be contested or appealed.

6 (6) The authority shall reimburse the department for the
7 actual cost incurred by the department or a contractor of the
8 department to review a work plan under this section. Funds paid
9 to the department under this subsection shall be deposited in the
10 environmental response fund established under section 20108 of
11 part 201 (environmental remediation) of the natural resources and
12 environmental protection act, Act No. 451 of the Public Acts of
13 1994, being section 324.20108 of the Michigan Compiled Laws.

14 Sec. 18. (1) The authority shall prepare and approve a
15 budget for the operation of the authority for the ensuing fiscal
16 year. The budget shall be prepared in the manner and contain the
17 information required of municipal departments. Funds of a munic-
18 ipality shall not be included in the budget of the authority
19 except those funds authorized in this act or by the governing
20 body of the municipality.

21 (2) The governing body of a municipality may assess a rea-
22 sonable pro rata share of the funds for the cost of handling and
23 auditing the funds of the authority, other than those committed
24 for designated purposes, which cost shall be paid annually by the
25 authority under an appropriate item in its budget.

26 Sec. 19. The state tax commission may institute proceedings
27 to compel enforcement of the requirements of this act.

1 Sec. 20. This act shall take effect January 1, 1997.