

HOUSE BILL NO. 6348

November 12, 2020, Introduced by Reps. Coleman and Steven Johnson and referred to the Committee on Government Operations.

A bill to amend 2018 PA 57, entitled
"Recodified tax increment financing act,"
by amending sections 404 and 416 (MCL 125.4404 and 125.4416).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 404. (1) The governing body of a municipality may declare
2 by resolution adopted by a majority of its members elected and
3 serving its intention to create and provide for the operation of an
4 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—Through December 31, 2021, 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. **Beginning January 1, 2022, the governing body shall post notice as provided in the local government public notice act not less than 20 or 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

1 jurisdiction with millage that would be subject to capture has the
2 right to be heard in regard to the establishment of the authority
3 and the boundaries of that proposed authority district. The
4 governing body of the municipality in which a proposed district is
5 to be located shall not incorporate land into an authority district
6 not included in the description contained in the notice of public
7 hearing, but it may eliminate lands described in the notice of
8 public hearing from an authority district in the final
9 determination of the boundaries.

10 (3) Except as otherwise provided in subsection (8), not more
11 than 60 days after a public hearing held after February 15, 1994,
12 the governing body of a taxing jurisdiction with millage that would
13 otherwise be subject to capture may exempt its taxes from capture
14 by adopting a resolution to that effect and filing a copy with the
15 clerk of the municipality proposing to create the authority.
16 However, a resolution by a governing body of a taxing jurisdiction
17 to exempt its taxes from capture is not effective for the capture
18 of taxes that are used for a certified technology park or a
19 certified alternative energy park. The resolution takes effect when
20 filed with that clerk and remains effective until a copy of a
21 resolution rescinding that resolution is filed with that clerk. If
22 a separate millage for public library purposes was levied before
23 January 1, 2017, and all obligations and other protected
24 obligations of the authority are paid, then the levy is exempt from
25 capture under this part, unless the library board or commission
26 allows all or a portion of its taxes levied to be included as tax
27 increment revenues and subject to capture under this part under the
28 terms of a written agreement between the library board or
29 commission and the authority. The written agreement shall be filed

1 with the clerk of the municipality. However, if a separate millage
2 for public library purposes was levied before January 1, 2017, and
3 the authority alters or amends the boundaries of the authority
4 district or extends the duration of the existing finance plan, then
5 the library board or commission may, not later than 60 days after a
6 public hearing is held under this subsection, exempt all or a
7 portion of its taxes from capture by adopting a resolution to that
8 effect and filing a copy with the clerk of the municipality that
9 created the authority. For ad valorem property taxes or specific
10 local taxes attributable to those ad valorem property taxes levied
11 for a separate millage for public library purposes approved by the
12 electors after December 31, 2016, a library board or commission may
13 allow all or a portion of its taxes levied to be included as tax
14 increment revenues and subject to capture under this part under the
15 terms of a written agreement between the library board or
16 commission and the authority. The written agreement shall be filed
17 with the clerk of the municipality. However, if the library was
18 created under section 1 or 10a of 1877 PA 164, MCL 397.201 and
19 397.210a, or established under 1869 LA 233, then any action of the
20 library board or commission under this subsection shall have the
21 concurrence of the chief executive officer of the city that created
22 the library to be effective.

23 (4) Except as otherwise provided in subsection (8), not less
24 than 60 days after the public hearing or a shorter period as
25 determined by the governing body for a certified technology park or
26 a certified alternative energy park, if the governing body creating
27 the authority intends to proceed with the establishment of the
28 authority, it shall adopt, by majority vote of its members elected
29 and serving, a resolution establishing the authority and

1 designating the boundaries of the authority district or districts
2 within which the authority shall exercise its powers. The adoption
3 of the resolution is subject to any applicable statutory or charter
4 provisions with respect to the approval or disapproval of
5 resolutions by the chief executive officer of the municipality and
6 the adoption of a resolution over his or her veto. This resolution
7 shall be filed with the secretary of state promptly after its
8 adoption and shall be published at least once in a newspaper of
9 general circulation in the municipality.

10 (5) The governing body may alter or amend the boundaries of an
11 authority district to include or exclude lands from that authority
12 district or create new authority districts pursuant to the same
13 requirements prescribed for adopting the resolution creating the
14 authority.

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

19 (a) Publication of the resolution creating the authority as
20 adopted.

21 (b) Filing of the resolution creating the authority with the
22 secretary of state.

23 (7) Except as otherwise provided by this subsection, if 2 or
24 more municipalities desire to establish an authority under section
25 403(2), each municipality in which the authority district will be
26 located shall comply with the procedures prescribed by this part.
27 The notice required by subsection (2) may be published jointly by
28 the municipalities establishing the authority. The resolutions
29 establishing the authority shall include, or shall approve an

1 agreement including, provisions governing the number of members on
2 the board, the method of appointment, the members to be represented
3 by governmental units or agencies, the terms of initial and
4 subsequent appointments to the board, the manner in which a member
5 of the board may be removed for cause before the expiration of his
6 or her term, the manner in which the authority may be dissolved,
7 and the disposition of assets upon dissolution. An authority
8 described in this subsection shall not be considered established
9 unless all of the following conditions are satisfied:

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

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

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

19 (8) For an authority created under section 403(3), except as
20 otherwise provided by this subsection, the Next Michigan
21 development corporation shall comply with the procedures prescribed
22 for a municipality by subsections (1) and (2) and this subsection.
23 The provisions of subsections (3) and (4) shall not apply to an
24 authority exercising its powers under section 403(3). The notice
25 required by subsection (2) may be published by the Next Michigan
26 development corporation in a newspaper or newspapers of general
27 circulation within the municipalities which are constituent members
28 of the Next Michigan development corporation, and notice shall not
29 be required to be mailed to the property taxpayers of record in the

1 proposed authority district. The governing body of the Next
2 Michigan development corporation shall be the governing body of the
3 authority. A taxing jurisdiction levying ad valorem taxes within
4 the authority district that would otherwise be subject to capture
5 which is not a party to the intergovernmental agreement may exempt
6 its taxes from capture by adopting a resolution to that effect and
7 filing a copy not more than 60 days after the public hearing with
8 the recording officer of the Next Michigan development corporation.
9 The Next Michigan development corporation shall mail notice of the
10 public hearing to the governing body of each taxing jurisdiction
11 which is not a party to the intergovernmental agreement not less
12 than 20 days before the hearing. Following the public hearing, the
13 governing body of the Next Michigan development corporation shall
14 adopt a resolution designating the boundaries of the authority
15 district within which the authority shall exercise its powers,
16 which may include any certified technology park within the proposed
17 authority district in accordance with this subsection and may
18 include property adjacent to or within 1,500 feet of a road
19 classified as an arterial or collector according to the Federal
20 Highway Administration manual "Highway Functional Classification -
21 Concepts, Criteria and Procedures" or of another road in the
22 discretion of the Next Michigan development corporation, and
23 property adjacent to that property within the territory of the Next
24 Michigan development corporation, as provided in the resolution.
25 The resolution shall be effective when adopted, shall be filed with
26 the secretary of state and the president of the Michigan strategic
27 fund promptly after its adoption, and shall be published at least
28 once in a newspaper of general circulation in the territory of the
29 Next Michigan development corporation. If an authority district

1 designated under this subsection or subsequently amended includes a
2 certified technology park which is within the authority district of
3 another authority and which is subject to an existing development
4 plan or tax increment financing plan, then that certified
5 technology park may be considered to be under the jurisdiction of
6 the authority established under section 403(3) if so provided in a
7 resolution of the authority established under section 403(3) and if
8 approved by resolution of the governing body of the municipality
9 which created the other authority, and by the president of the
10 Michigan strategic fund. If so provided and approved, then the
11 development plan and tax increment financing plan applicable to the
12 certified technology park, including all assets and obligations
13 under the plans, shall be considered assigned and transferred from
14 the other authority to the authority created under section 403(3),
15 and the initial assessed value of the certified technology park
16 prior to the transfer shall remain the initial assessed value of
17 the certified technology park following the transfer. The transfer
18 shall be effective as of the later of the effective date of the
19 resolution of the authority established under section 403(3), the
20 resolution approved by the governing body of the municipality which
21 created the other authority, and the approval of the president of
22 the Michigan strategic fund.

23 Sec. 416. (1) Before adoption of a resolution approving or
24 amending a development plan or approving or amending a tax
25 increment financing plan, the governing body shall hold a public
26 hearing on the development plan. ~~Notice~~**Through December 31, 2021,**
27 **notice** of the time and place of the hearing shall be given by
28 publication twice in a newspaper of general circulation designated
29 by the municipality, the first of which shall not be less than 20

1 days before the date set for the hearing. **Beginning January 1,**
2 **2022, the governing body shall post notice as provided in the local**
3 **government public notice act not less than 20 days before the date**
4 **set for the hearing.** Beginning June 1, 2005, the notice of hearing
5 within the time frame described in this subsection shall be mailed
6 by certified mail to the governing body of each taxing jurisdiction
7 levying taxes that would be subject to capture if the development
8 plan or the tax increment financing plan is approved or amended.

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

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

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

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

21 (3) At the time set for hearing, the governing body shall
22 provide an opportunity for interested persons to be heard and shall
23 receive and consider communications in writing with reference to
24 the matter. The hearing shall provide the fullest opportunity for
25 expression of opinion, for argument on the merits, and for
26 introduction of documentary evidence pertinent to the development
27 plan. The governing body shall make and preserve a record of the
28 public hearing, including all data presented at that time.

29 Enacting section 1. This amendatory act does not take effect

- 1 unless Senate Bill No.____ or House Bill No. 6440 (request no.
- 2 02449'19) of the 100th Legislature is enacted into law.