

## Timothy Thwing

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**From:** Michigan Downtown Association [tiffany@michigandowntowns.com]  
**Sent:** Tuesday, January 10, 2017 2:42 PM  
**To:** Tim Thwing  
**Subject:** ALERT: Governor Snyder has signed the library opt-out package of bills  
**Attachments:** Analysis of Library Opt Out Bill as Passed by House Committee - does not reflect final floor amendments.pdf; Public Act 506 of 2016 Libraries Opt-Out.pdf; SB 620 as enrolled.pdf



We received word yesterday that Governor Snyder signed the library opt-out package of bills. They are now Public Acts 505-510 of 2016. The bills are effective as of January 9th, 2017.

Attached please find two versions of the final bill. The first is the new Public Act 506 of 2016, as signed by the Governor. Also attached is the final Senate 'enrolled' bill. This document is helpful because it distinguishes between the existing law (regular text) and the changes made by the re-passed legislation (**BOLD** and **ALL CAPS**). Attached, too, please find the House Fiscal Agency analysis of the bill as it passed the House Committee. This review does not reflect the floor amendments added just prior to final passage. Those changes were not substantive, but are listed here:

- Library millages exempted from TIF capture are changed from those approved by the elect after December 31, 2015 to December 31, 2016.
- The bill also exempts current library millages from tax capture if:

1) The millage was levied before January 1, 2017 (the date in the original bill was 2016); and  
 2) "all obligations and other protected obligations of the authority are paid,..." The bill as introduced and passed by the Senate had originally said "and all obligations and other protected obligations the authority are paid or defeased,..."

- Where the bill details how a library board or commission may allow all or part of its taxes to be included as tax increment revenues and subject to capture, the bill was amended to include a different process for the Detroit City Library, to include Mayor Duggen in the approval process.

DDA Directors: You will need to review the new law with your legal counsel and elected officials to determine the impact it will have on your community and also what steps you will need to take.

Michigan Downtown Association

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## **PROTECT LIBRARY MILLAGES FROM CAPTURE BY TAX INCREMENT FINANCE AUTHORITIES**

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**Senate Bills 579 & 622 as passed by the Senate**  
**Sponsor: Sen. Dave Robertson**

Analysis available at  
<http://www.legislature.mi.gov>

**Senate Bills 619 & 620 as passed**  
**Sponsor: Sen. Jack Brandenburg**

**Senate Bill 621 as passed**  
**Sponsor: Sen. Peter MacGregor**

**Senate Bills 623 & 624 as passed**  
**Sponsor: Sen. Rick Jones**

**House Committee: Tax Policy**  
**Senate Committee: Finance**  
**Complete to 11-29-16**

### **SUMMARY:**

The bills would prohibit a tax increment financing program from capturing the revenues from taxes levied from separate millages levied for library purposes approved by the voters after December 31, 2015.

[Generally speaking, when a local unit of government creates a tax increment financing authority, or TIFA, it establishes a special district and then the authority captures future increases in tax revenue within that district for the authority to use in financing public infrastructure improvement projects, or other activities, within the district; this can include the issuance of bonds to finance projects.]

A library board, however, could agree to allow all or a portion of its taxes to be included as tax increment revenues through a written agreement between a library board or commission and the tax increment finance authority (TIFA). The agreement would have to be filed with the municipal clerk. (Such an action would also require the concurrence of the chief executive officer of the city if the library was created under Section 1 or 10a of Public Act 164 of 1877, sections that authorize cities, by council action or a vote of city residents, to establish and maintain, or contract for the use of, free public libraries and reading rooms.)

Further, if a separate library millage was levied before January 1, 2016, and all obligations of the tax increment finance authority were paid or defeased, then the levy would be exempt from capture, unless the library board or commission allowed a portion of its taxes to be subject to capture under the terms of a written agreement with the TIFA and filed with the local clerk.

Also under the bills, if a separate library millage was levied before January 1, 2016, and the TIFA modifies its plan to include additional activities, to alter or amend its boundaries,

or to extend the duration of the existing finance plan, then the library could exempt all or a portion of its taxes from capture. A library board or commission would have to do this by adopting a resolution not later than 60 days after a public hearing on the proposal to amend or extend the plan.

Each of the bills would amend a different act that allows for the creation of tax increment finance authorities.

Senate Bill 579 would amend the Brownfield Redevelopment Financing Act (MCL 125.2652 & 2654).

Senate Bill 619 would amend the Tax Increment Finance Authority Act (MCL 125.1801 & 1803).

Senate Bill 620 would amend the act governing downtown development authorities (MCL 125.1651 & 1653).

Senate Bill 621 would amend the Corridor Improvement Authority Act (MCL 125. 2873 & 2888).

Senate Bill 622 would amend the Water Resource Improvement Tax Increment Finance Authority Act (MCL 125.1773 & 1785). The bill also would exclude millages levied under the Zoological Authorities Act and the Art Institution Authorities Act from capture. These millages are already excluded under other types of TIF authorities.

Senate Bill 623 would amend the Local Development Financing Authority Act (MCL 125.2152 & 2154).

Senate Bill 624 would amend the Historical Neighborhood Tax Increment Finance Authority Act (MCL 125.2843 & 2847). The bill also would exclude millages levied under the Zoological Authorities Act and the Art Institution Authorities Act from capture. These millages are already excluded under other types of TIF authorities.

#### **FISCAL IMPACT:**

Total revenues to local units of government would not change under the provisions of the bills. However, public libraries that levy a separate millage approved by the voters would realize increased revenues and affected tax increment financing (TIF) authorities would realize a corresponding decrease in revenues relative to current law provisions. The fiscal impact on each local unit of government would depend on taxable values, millage rates, and whether a local public library board or commission authorized all or a portion of its taxes to be captured.

Senate Bills 622 and 624 would also exclude millages levied under the Zoological Authorities Act and the Art Institution Authorities Act from capture by a Water Resources Improvement Tax Increment Authority and a Historical Neighborhood Tax Increment

Financing Authority. These millages are already excluded under all other types of TIF authorities. To the extent that the any revenue generated under Zoological Authorities Act and Art Institution Authorities Act are captured by the two tax increment authorities addressed in Senate Bills 622 and 624, the bills would redistribute those revenues from the TIF authority to the institutions levying the millages under the acts.

Legislative Analyst: Chris Couch  
Fiscal Analyst: Ben Gielczyk

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2016**

Introduced by Senators Brandenburg, Kowall and Marleau

# ENROLLED SENATE BILL No. 620

AN ACT to amend 1975 PA 197, entitled “An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,” by amending sections 1 and 3 (MCL 125.1651 and 125.1653), section 1 as amended by 2013 PA 66 and section 3 as amended by 2005 PA 115.

*The People of the State of Michigan enact:*

Sec. 1. 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) “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.

(c) “Authority” means a downtown development authority created pursuant to this act.

(d) “Board” means the governing body of an authority.

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

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

(g) “Catalyst development project” means a project that is located in a municipality with a population greater than 600,000, is designated by the authority as a catalyst development project, and is expected to result in at least \$300,000,000.00 of capital investment. There shall be no more than 1 catalyst development project designated within each authority.

(h) “Chief executive officer” means the mayor or city manager of a city, the president or village manager of a village, or the supervisor of a township or, if designated by the township board for purposes of this act, the township superintendent or township manager of a township.

(i) “Development area” means that area to which a development plan is applicable.

(j) “Development plan” means that information and those requirements for a development plan set forth in section 17.

(k) “Development program” means the implementation of the development plan.

(l) “Downtown district” means that part of an area in a business district that is specifically designated by ordinance of the governing body of the municipality pursuant to this act. A downtown district may include 1 or more separate and distinct geographic areas in a business district as determined by the municipality if the municipality enters into an agreement with a qualified township under section 3(7) or if the municipality is a city that surrounds another city and that other city lies between the 2 separate and distinct geographic areas. If the downtown district contains more than 1 separate and distinct geographic area in the downtown district, the separate and distinct geographic areas shall be considered 1 downtown district.

(m) “Eligible advance” means an advance made before August 19, 1993.

(n) “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.

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

(p) “Fiscal year” means the fiscal year of the authority.

(q) “Governing body of a municipality” means the elected body of a municipality having legislative powers.

(r) “Initial assessed value” means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in subdivision (aa). In the case of a municipality having a population of less than 35,000 that established an authority prior to 1985, created a district or districts, and approved a development plan or tax increment financing plan or amendments to a plan, and which plan or tax increment financing plan or amendments to a plan, and which plan expired by its terms December 31, 1991, the initial assessed value for the purpose of any plan or plan amendment adopted as an extension of the expired plan shall be determined as if the plan had not expired December 31, 1991. For a development area designated before 1997 in which a renaissance zone has subsequently been designated pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the development area otherwise determined under this subdivision shall be reduced by the amount by which the current assessed value of the development area was reduced in 1997 due to the exemption of property under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the initial assessed value be less than zero.

(s) “Municipality” means a city, village, or township.

(t) “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.

(u) “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 the 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.

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

(w) "Other protected obligation" means:

(i) A qualified refunding obligation issued to refund an obligation described in subparagraph (ii), (iii), or (iv), 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 December 31, 1993, for which a contract for final design is entered into by or on behalf of the municipality or authority before March 1, 1994 or for which a written agreement with a developer, titled preferred development agreement, was entered into by or on behalf of the municipality or authority in July 1993.

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

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

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

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

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

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

(v) An ongoing management or professional services contract with the governing body of a county which was entered into before March 1, 1994 and which 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.

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

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

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

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

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

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

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

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

(x) "Public facility" means a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure,



waterway, bridge, lake, pond, canal, utility line or pipe, building, and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by a public agency. Public facility includes 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. Public facility also includes the acquisition, construction, improvement, and operation of a building owned or leased by the authority to be used as a retail business incubator.

(y) “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 1 or more of the following apply:

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

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

(A) 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.

(B) The net present value of the sum of the tax increment revenues described in subdivision (cc)(ii) and the distributions under section 13b 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 (cc)(ii) and the distributions under section 13b to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(iii) The obligation is issued to refund an other protected obligation issued as a capital appreciation bond delivered to the Michigan municipal bond authority on December 21, 1994 and any subsequent refundings of that obligation issued before January 1, 2012. Qualified refunding obligations issued under this subparagraph are not subject to the requirements of section 305(2), (3), (5), and (6), section 501, section 503, or section 611 of the revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501, 141.2503, and 141.2611, if issued before January 1, 2012. The duration of the development program described in the tax increment financing plan relating to the qualified refunding obligations issued under this subparagraph is extended to 1 year after the final date of maturity of the qualified refunding obligations. The obligation may be payable through the year 2025 at an interest rate not exceeding the maximum rate permitted by law, notwithstanding the bond maturity dates contained in the notice of intent to issue bonds published by the municipality. An obligation issued under this subparagraph is a qualified refunding obligation only to the extent that revenues described in subdivision (cc)(ii) and distributions under section 13b to repay the qualified refunding obligation do not exceed \$750,000.00.

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

(z) “Qualified township” means a township that meets all of the following requirements:

(i) Was not eligible to create an authority prior to January 3, 2005.

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

(iii) Along with the adjoining municipality that previously created an authority, is a member of the same joint planning commission under the joint municipal planning act, 2003 PA 226, MCL 125.131 to 125.143.

(aa) “Specific local tax” means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be 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.

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

(cc) "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 real and personal property in the development area, 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), to repay eligible advances, eligible obligations, and other protected obligations.

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

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

(B) 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 or specific local taxes attributable to such ad valorem property taxes.

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

(D) 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 3(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) or (v), and required to be transmitted to the authority under section 14(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, 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) or (v).

(v) Tax increment revenues include ad valorem property taxes and specific local taxes, in an annual amount and for each year approved by the state treasurer, attributable to the levy by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local or intermediate school districts, upon the captured assessed value of real and personal property in the development area of an authority established in a city with a population of 600,000 or more to pay for, or reimburse an advance for, not more than \$8,000,000.00 for the demolition of buildings or structures on public or privately owned property within a development area that commences in 2005, or to pay the annual principal of or interest on an obligation, the terms of which are approved by the state treasurer, issued by an authority, or by a city on behalf of an authority, to pay not more than \$8,000,000.00 of the costs to demolish buildings or structures on public or privately owned property within a development area that commences in 2005.

(vi) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the levy by this state under the state education tax act, 1993 PA 331, MCL 211.201 to 211.906, and by local or intermediate school districts which were levied on or after July 1, 2010, upon the captured assessed value of real and personal property in the development area of an authority established in a city with a population of 600,000 or more to pay for, or reimburse

an advance for, costs associated with the land acquisition, preliminary site work, and construction of a catalyst development project.

Sec. 3. (1) When the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in its business district, to eliminate the causes of that deterioration, and to promote economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for the holding of a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the downtown district. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. 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 the proposed 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. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed downtown district not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed downtown district. A citizen, taxpayer, or property owner of the municipality 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 the proposed downtown district. The governing body of the municipality shall not incorporate land into the downtown district not included in the description contained in the notice of public hearing, but it may eliminate described lands from the downtown district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction levying ad valorem property taxes 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. 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 a downtown 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, and, if the action of the library board or commission involves any bond issued by this state or a state agency, the concurrence of the state treasurer.

(4) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the downtown district within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance 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 of the municipality may alter or amend the boundaries of the downtown district to include or exclude lands from the downtown district pursuant to the same requirements for adopting the ordinance creating the authority.

(6) A municipality that has created an authority may enter into an agreement with an adjoining municipality that has created an authority to jointly operate and administer those authorities under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

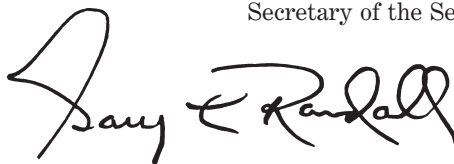
(7) A municipality that has created an authority may enter into an agreement with a qualified township to operate its authority in a downtown district in the qualified township under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512. The interlocal agreement between the municipality and the qualified township shall provide for, but is not limited to, all of the following:

- (a) Size and makeup of the board.
- (b) Determination and modification of downtown district, business district, and development area.
- (c) Modification of development area and development plan.
- (d) Issuance and repayment of obligations.
- (e) Capture of taxes.
- (f) Notice, hearing, and exemption of taxes from capture provisions described in this section.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

.....  
Governor

**HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 620**

A bill to amend 1975 PA 197, entitled

"An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,"

by amending sections 1 and 3 (MCL 125.1651 and 125.1653), section 1 as amended by 2013 PA 66 and section 3 as amended by 2005 PA 115.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. As used in this act:

2           (a) "Advance" means a transfer of funds made by a municipality  
3 to an authority or to another person on behalf of the authority in

1 anticipation of repayment by the authority. Evidence of the intent  
2 to repay an advance may include, but is not limited to, an executed  
3 agreement to repay, provisions contained in a tax increment  
4 financing plan approved prior to the advance, or a resolution of  
5 the authority or the municipality.

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

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

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

13 (c) "Authority" means a downtown development authority created  
14 pursuant to this act.

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

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

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

24 (g) "Catalyst development project" means a project that is  
25 located in a municipality with a population greater than 600,000,  
26 is designated by the authority as a catalyst development project,  
27 and is expected to result in at least \$300,000,000.00 of capital

1 investment. There shall be no more than 1 catalyst development  
2 project designated within each authority.

3 (h) "Chief executive officer" means the mayor or city manager  
4 of a city, the president or village manager of a village, or the  
5 supervisor of a township or, if designated by the township board  
6 for purposes of this act, the township superintendent or township  
7 manager of a township.

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

10 (j) "Development plan" means that information and those  
11 requirements for a development plan set forth in section 17.

12 (k) "Development program" means the implementation of the  
13 development plan.

14 (l) "Downtown district" means that part of an area in a  
15 business district that is specifically designated by ordinance of  
16 the governing body of the municipality pursuant to this act. A  
17 downtown district may include 1 or more separate and distinct  
18 geographic areas in a business district as determined by the  
19 municipality if the municipality enters into an agreement with a  
20 qualified township under section 3(7) or if the municipality is a  
21 city that surrounds another city and that other city lies between  
22 the 2 separate and distinct geographic areas. If the downtown  
23 district contains more than 1 separate and distinct geographic area  
24 in the downtown district, the separate and distinct geographic  
25 areas shall be considered 1 downtown district.

26 (m) "Eligible advance" means an advance made before August 19,  
27 1993.

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

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

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

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

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



1 than 35,000 that established an authority prior to 1985, created a  
2 district or districts, and approved a development plan or tax  
3 increment financing plan or amendments to a plan, and which plan or  
4 tax increment financing plan or amendments to a plan, and which  
5 plan expired by its terms December 31, 1991, the initial assessed  
6 value for the purpose of any plan or plan amendment adopted as an  
7 extension of the expired plan shall be determined as if the plan  
8 had not expired December 31, 1991. For a development area  
9 designated before 1997 in which a renaissance zone has subsequently  
10 been designated pursuant to the Michigan renaissance zone act, 1996  
11 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the  
12 development area otherwise determined under this subdivision shall  
13 be reduced by the amount by which the current assessed value of the  
14 development area was reduced in 1997 due to the exemption of  
15 property under section 7ff of the general property tax act, 1893 PA  
16 206, MCL 211.7ff, but in no case shall the initial assessed value  
17 be less than zero.

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

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

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

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

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

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

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

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

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

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

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

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

7           (v) "Operations" means office maintenance, including salaries  
8 and expenses of employees, office supplies, consultation fees,  
9 design costs, and other expenses incurred in the daily management  
10 of the authority and planning of its activities.

11           (w) "Other protected obligation" means:

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

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

1           (iii) An obligation incurred by an authority or municipality  
2 after August 19, 1993, to reimburse a party to a development  
3 agreement entered into by a municipality or authority before August  
4 19, 1993, for a project described in a tax increment financing plan  
5 approved in accordance with this act before August 19, 1993, and  
6 undertaken and installed by that party in accordance with the  
7 development agreement.

8           (iv) An obligation incurred by the authority evidenced by or  
9 to finance a contract to purchase real property within a  
10 development area or a contract to develop that property within the  
11 development area, or both, if all of the following requirements are  
12 met:

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

14           (B) Before June 30, 1995, the authority enters a contract for  
15 the development of the real property located within the development  
16 area.

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

19           (I) The department of natural resources for site reclamation  
20 of the real property.

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

23           (v) An ongoing management or professional services contract  
24 with the governing body of a county which was entered into before  
25 March 1, 1994 and which was preceded by a series of limited term  
26 management or professional services contracts with the governing  
27 body of the county, the last of which was entered into before

1 August 19, 1993.

2 (vi) A loan from a municipality to an authority if the loan  
3 was approved by the legislative body of the municipality on April  
4 18, 1994.

5 (vii) Funds expended to match a grant received by a  
6 municipality on behalf of an authority for sidewalk improvements  
7 from the Michigan department of transportation if the legislative  
8 body of the municipality approved the grant application on April 5,  
9 1993 and the grant was received by the municipality in June 1993.

10 (viii) For taxes captured in 1994, an obligation described in  
11 this subparagraph issued or incurred to finance a project. An  
12 obligation is considered issued or incurred to finance a project  
13 described in this subparagraph only if all of the following are  
14 met:

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

17 (B) The obligation was part of a development plan and the tax  
18 increment financing plan was approved by a municipality on May 6,  
19 1991.

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

23 (D) The authority or municipality captured school taxes during  
24 1994.

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

1           (x) "Public facility" means a street, plaza, pedestrian mall,  
2 and any improvements to a street, plaza, or pedestrian mall  
3 including street furniture and beautification, park, parking  
4 facility, recreational facility, right-of-way, structure, waterway,  
5 bridge, lake, pond, canal, utility line or pipe, building, and  
6 access routes to any of the foregoing, designed and dedicated to  
7 use by the public generally, or used by a public agency. Public  
8 facility includes an improvement to a facility used by the public  
9 or a public facility as those terms are defined in section 1 of  
10 1966 PA 1, MCL 125.1351, which improvement is made to comply with  
11 the barrier free design requirements of the state construction code  
12 promulgated under the Stille-DeRossett-Hale single state  
13 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.  
14 Public facility also includes the acquisition, construction,  
15 improvement, and operation of a building owned or leased by the  
16 authority to be used as a retail business incubator.

17           (y) "Qualified refunding obligation" means an obligation  
18 issued or incurred by an authority or by a municipality on behalf  
19 of an authority to refund an obligation if 1 or more of the  
20 following apply:

21           (i) The obligation is issued to refund a qualified refunding  
22 obligation issued in November 1997 and any subsequent refundings of  
23 that obligation issued before January 1, 2010 or the obligation is  
24 issued to refund a qualified refunding obligation issued on May 15,  
25 1997 and any subsequent refundings of that obligation issued before  
26 January 1, 2010 in an authority in which 1 parcel or group of  
27 parcels under common ownership represents 50% or more of the

1 taxable value captured within the tax increment finance district  
2 and that will ultimately provide for at least a 40% reduction in  
3 the taxable value of the property as part of a negotiated  
4 settlement as a result of an appeal filed with the state tax  
5 tribunal. Qualified refunding obligations issued under this  
6 subparagraph are not subject to the requirements of section 611 of  
7 the revised municipal finance act, 2001 PA 34, MCL 141.2611, if  
8 issued before January 1, 2010. The duration of the development  
9 program described in the tax increment financing plan relating to  
10 the qualified refunding obligations issued under this subparagraph  
11 is hereby extended to 1 year after the final date of maturity of  
12 the qualified refunding obligations.

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

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

19 (B) The net present value of the sum of the tax increment  
20 revenues described in subdivision (cc) (ii) and the distributions  
21 under section 13b to repay the refunding obligation will not be  
22 greater than the net present value of the sum of the tax increment  
23 revenues described in subdivision (cc) (ii) and the distributions  
24 under section 13b to repay the obligation being refunded, as  
25 calculated using a method approved by the department of treasury.

26 (iii) The obligation is issued to refund an other protected  
27 obligation issued as a capital appreciation bond delivered to the

1 Michigan municipal bond authority on December 21, 1994 and any  
2 subsequent refundings of that obligation issued before January 1,  
3 2012. Qualified refunding obligations issued under this  
4 subparagraph are not subject to the requirements of section 305(2),  
5 (3), (5), and (6), section 501, section 503, or section 611 of the  
6 revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501,  
7 141.2503, and 141.2611, if issued before January 1, 2012. The  
8 duration of the development program described in the tax increment  
9 financing plan relating to the qualified refunding obligations  
10 issued under this subparagraph is extended to 1 year after the  
11 final date of maturity of the qualified refunding obligations. The  
12 obligation may be payable through the year 2025 at an interest rate  
13 not exceeding the maximum rate permitted by law, notwithstanding  
14 the bond maturity dates contained in the notice of intent to issue  
15 bonds published by the municipality. An obligation issued under  
16 this subparagraph is a qualified refunding obligation only to the  
17 extent that revenues described in subdivision (cc) (ii) and  
18 distributions under section 13b to repay the qualified refunding  
19 obligation do not exceed \$750,000.00.

20 (iv) The obligation is issued to refund a qualified refunding  
21 obligation issued on February 13, 2008, and any subsequent  
22 refundings of that obligation, issued before December 31, 2018.  
23 Qualified refunding obligations issued under this subparagraph are  
24 not subject to the requirements of section 305(2), (3), (5), and  
25 (6), 501, 503, or 611 of the revised municipal finance act, 2001 PA  
26 34, MCL 141.2305, 141.2501, 141.2503, and 141.2611. The duration of  
27 the development program described in the tax increment financing



1 plan relating to the qualified refunding obligations issued under  
2 this subparagraph is extended to 1 year after the final date of  
3 maturity of the qualified refunding obligations. Revenues described  
4 in subdivision (cc) (ii) and distributions made under section 13b in  
5 excess of the amount needed for current year debt service on an  
6 obligation issued under this subparagraph may be paid to the  
7 authority to the extent necessary to pay future years' debt service  
8 on the obligation as determined by the board.

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

11 (i) Was not eligible to create an authority prior to January  
12 3, 2005.

13 (ii) Adjoins a municipality that previously created an  
14 authority.

15 (iii) Along with the adjoining municipality that previously  
16 created an authority, is a member of the same joint planning  
17 commission under the joint municipal planning act, 2003 PA 226, MCL  
18 125.131 to 125.143.

19 (aa) "Specific local tax" means a tax levied under 1974 PA  
20 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978  
21 PA 255, MCL 207.651 to 207.668, the technology park development  
22 act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL  
23 211.181 to 211.182. The initial assessed value or current assessed  
24 value of property subject to a specific local tax shall be the  
25 quotient of the specific local tax paid divided by the ad valorem  
26 millage rate. However, after 1993, the state tax commission shall  
27 prescribe the method for calculating the initial assessed value and

1 current assessed value of property for which a specific local tax  
2 was paid in lieu of a property tax.

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

5 (cc) "Tax increment revenues" means the amount of ad valorem  
6 property taxes and specific local taxes attributable to the  
7 application of the levy of all taxing jurisdictions upon the  
8 captured assessed value of real and personal property in the  
9 development area, subject to the following requirements:

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

17 (ii) Tax increment revenues include ad valorem property taxes  
18 and specific local taxes attributable to the application of the  
19 levy of the state pursuant to the state education tax act, 1993 PA  
20 331, MCL 211.901 to 211.906, and local or intermediate school  
21 districts upon the captured assessed value of real and personal  
22 property in the development area in an amount equal to the amount  
23 necessary, without regard to subparagraph (i), to repay eligible  
24 advances, eligible obligations, and other protected obligations.

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

27 (A) Ad valorem property taxes attributable either to a portion

1 of the captured assessed value shared with taxing jurisdictions  
2 within the jurisdictional area of the authority or to a portion of  
3 value of property that may be excluded from captured assessed value  
4 or specific local taxes attributable to such ad valorem property  
5 taxes.

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

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

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

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

19 (II) The art institute authorities act, 2010 PA 296, MCL  
20 123.1201 to 123.1229.

21 **(III) EXCEPT AS OTHERWISE PROVIDED IN SECTION 3(3), AD VALOREM**  
22 **PROPERTY TAXES OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THOSE AD**  
23 **VALOREM PROPERTY TAXES LEVIED FOR A SEPARATE MILLAGE FOR PUBLIC**  
24 **LIBRARY PURPOSES APPROVED BY THE ELECTORS AFTER DECEMBER 31, 2016.**

25 (iv) The amount of tax increment revenues authorized to be  
26 included under subparagraph (ii) or (v), and required to be  
27 transmitted to the authority under section 14(1), from ad valorem

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

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

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

19 (v) Tax increment revenues include ad valorem property taxes  
20 and specific local taxes, in an annual amount and for each year  
21 approved by the state treasurer, attributable to the levy by this  
22 state under the state education tax act, 1993 PA 331, MCL 211.901  
23 to 211.906, and by local or intermediate school districts, upon the  
24 captured assessed value of real and personal property in the  
25 development area of an authority established in a city with a  
26 population of 600,000 or more to pay for, or reimburse an advance  
27 for, not more than \$8,000,000.00 for the demolition of buildings or

1 structures on public or privately owned property within a  
2 development area that commences in 2005, or to pay the annual  
3 principal of or interest on an obligation, the terms of which are  
4 approved by the state treasurer, issued by an authority, or by a  
5 city on behalf of an authority, to pay not more than \$8,000,000.00  
6 of the costs to demolish buildings or structures on public or  
7 privately owned property within a development area that commences  
8 in 2005.

9 (vi) Tax increment revenues include ad valorem property taxes  
10 and specific local taxes attributable to the levy by this state  
11 under the state education tax act, 1993 PA 331, MCL 211.201 to  
12 211.906, and by local or intermediate school districts which were  
13 levied on or after July 1, 2010, upon the captured assessed value  
14 of real and personal property in the development area of an  
15 authority established in a city with a population of 600,000 or  
16 more to pay for, or reimburse an advance for, costs associated with  
17 the land acquisition, preliminary site work, and construction of a  
18 catalyst development project.

19 Sec. 3. (1) When the governing body of a municipality  
20 determines that it is necessary for the best interests of the  
21 public to halt property value deterioration and increase property  
22 tax valuation where possible in its business district, to eliminate  
23 the causes of that deterioration, and to promote economic growth,  
24 the governing body may, by resolution, declare its intention to  
25 create and provide for the operation of an authority.

26 (2) In the resolution of intent, the governing body shall set  
27 a date for the holding of a public hearing on the adoption of a

1 proposed ordinance creating the authority and designating the  
2 boundaries of the downtown district. Notice of the public hearing  
3 shall be published twice in a newspaper of general circulation in  
4 the municipality, not less than 20 or more than 40 days before the  
5 date of the hearing. Not less than 20 days before the hearing, the  
6 governing body proposing to create the authority shall also mail  
7 notice of the hearing to the property taxpayers of record in the  
8 proposed district and for a public hearing to be held after  
9 February 15, 1994 to the governing body of each taxing jurisdiction  
10 levying taxes that would be subject to capture if the authority is  
11 established and a tax increment financing plan is approved.  
12 Beginning June 1, 2005, the notice of hearing within the time frame  
13 described in this subsection shall be mailed by certified mail to  
14 the governing body of each taxing jurisdiction levying taxes that  
15 would be subject to capture if the authority is established and a  
16 tax increment financing plan is approved. Failure of a property  
17 taxpayer to receive the notice shall not invalidate these  
18 proceedings. Notice of the hearing shall be posted in at least 20  
19 conspicuous and public places in the proposed downtown district not  
20 less than 20 days before the hearing. The notice shall state the  
21 date, time, and place of the hearing, and shall describe the  
22 boundaries of the proposed downtown district. A citizen, taxpayer,  
23 or property owner of the municipality or an official from a taxing  
24 jurisdiction with millage that would be subject to capture has the  
25 right to be heard in regard to the establishment of the authority  
26 and the boundaries of the proposed downtown district. The governing  
27 body of the municipality shall not incorporate land into the

1 downtown district not included in the description contained in the  
2 notice of public hearing, but it may eliminate described lands from  
3 the downtown district in the final determination of the boundaries.

4 (3) Not more than 60 days after a public hearing held after  
5 February 15, 1994, the governing body of a taxing jurisdiction  
6 levying ad valorem property taxes that would otherwise be subject  
7 to capture may exempt its taxes from capture by adopting a  
8 resolution to that effect and filing a copy with the clerk of the  
9 municipality proposing to create the authority. The resolution  
10 takes effect when filed with that clerk and remains effective until  
11 a copy of a resolution rescinding that resolution is filed with  
12 that clerk. **IF A SEPARATE MILLAGE FOR PUBLIC LIBRARY PURPOSES WAS  
13 LEVIED BEFORE JANUARY 1, 2017, AND ALL OBLIGATIONS AND OTHER  
14 PROTECTED OBLIGATIONS OF THE AUTHORITY ARE PAID, THEN THE LEVY IS  
15 EXEMPT FROM CAPTURE UNDER THIS ACT, UNLESS THE LIBRARY BOARD OR  
16 COMMISSION ALLOWS ALL OR A PORTION OF ITS TAXES LEVIED TO BE  
17 INCLUDED AS TAX INCREMENT REVENUES AND SUBJECT TO CAPTURE UNDER  
18 THIS ACT UNDER THE TERMS OF A WRITTEN AGREEMENT BETWEEN THE LIBRARY  
19 BOARD OR COMMISSION AND THE AUTHORITY. THE WRITTEN AGREEMENT SHALL  
20 BE FILED WITH THE CLERK OF THE MUNICIPALITY. HOWEVER, IF A SEPARATE  
21 MILLAGE FOR PUBLIC LIBRARY PURPOSES WAS LEVIED BEFORE JANUARY 1,  
22 2017, AND THE AUTHORITY ALTERS OR AMENDS THE BOUNDARIES OF A  
23 DOWNTOWN DISTRICT OR EXTENDS THE DURATION OF THE EXISTING FINANCE  
24 PLAN, THEN THE LIBRARY BOARD OR COMMISSION MAY, NOT LATER THAN 60  
25 DAYS AFTER A PUBLIC HEARING IS HELD UNDER THIS SUBSECTION, EXEMPT  
26 ALL OR A PORTION OF ITS TAXES FROM CAPTURE BY ADOPTING A RESOLUTION  
27 TO THAT EFFECT AND FILING A COPY WITH THE CLERK OF THE MUNICIPALITY**

1 THAT CREATED THE AUTHORITY. FOR AD VALOREM PROPERTY TAXES OR  
2 SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THOSE AD VALOREM PROPERTY  
3 TAXES LEVIED FOR A SEPARATE MILLAGE FOR PUBLIC LIBRARY PURPOSES  
4 APPROVED BY THE ELECTORS AFTER DECEMBER 31, 2016, A LIBRARY BOARD  
5 OR COMMISSION MAY ALLOW ALL OR A PORTION OF ITS TAXES LEVIED TO BE  
6 INCLUDED AS TAX INCREMENT REVENUES AND SUBJECT TO CAPTURE UNDER  
7 THIS ACT UNDER THE TERMS OF A WRITTEN AGREEMENT BETWEEN THE LIBRARY  
8 BOARD OR COMMISSION AND THE AUTHORITY. THE WRITTEN AGREEMENT SHALL  
9 BE FILED WITH THE CLERK OF THE MUNICIPALITY. HOWEVER, IF THE  
10 LIBRARY WAS CREATED UNDER SECTION 1 OR 10A OF 1877 PA 164, MCL  
11 397.201 AND 397.210A, OR ESTABLISHED UNDER 1869 LA 233, THEN ANY  
12 ACTION OF THE LIBRARY BOARD OR COMMISSION UNDER THIS SUBSECTION  
13 SHALL HAVE THE CONCURRENCE OF THE CHIEF EXECUTIVE OFFICER OF THE  
14 CITY THAT CREATED THE LIBRARY TO BE EFFECTIVE, AND, IF THE ACTION  
15 OF THE LIBRARY BOARD OR COMMISSION INVOLVES ANY BOND ISSUED BY THIS  
16 STATE OR A STATE AGENCY, THE CONCURRENCE OF THE STATE TREASURER.

17 (4) Not less than 60 days after the public hearing, if the  
18 governing body of the municipality intends to proceed with the  
19 establishment of the authority, it shall adopt, by majority vote of  
20 its members, an ordinance establishing the authority and  
21 designating the boundaries of the downtown district within which  
22 the authority shall exercise its powers. The adoption of the  
23 ordinance is subject to any applicable statutory or charter  
24 provisions in respect to the approval or disapproval by the chief  
25 executive or other officer of the municipality and the adoption of  
26 an ordinance over his or her veto. This ordinance shall be filed  
27 with the secretary of state promptly after its adoption and shall



1 be published at least once in a newspaper of general circulation in  
2 the municipality.

3 (5) The governing body of the municipality may alter or amend  
4 the boundaries of the downtown district to include or exclude lands  
5 from the downtown district pursuant to the same requirements for  
6 adopting the ordinance creating the authority.

7 (6) A municipality that has created an authority may enter  
8 into an agreement with an adjoining municipality that has created  
9 an authority to jointly operate and administer those authorities  
10 under an interlocal agreement under the urban cooperation act of  
11 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

12 (7) A municipality that has created an authority may enter  
13 into an agreement with a qualified township to operate its  
14 authority in a downtown district in the qualified township under an  
15 interlocal agreement under the urban cooperation act of 1967, 1967  
16 (Ex Sess) PA 7, MCL 124.501 to 124.512. The interlocal agreement  
17 between the municipality and the qualified township shall provide  
18 for, but is not limited to, all of the following:

19 (a) Size and makeup of the board.

20 (b) Determination and modification of downtown district,  
21 business district, and development area.

22 (c) Modification of development area and development plan.

23 (d) Issuance and repayment of obligations.

24 (e) Capture of taxes.

25 (f) Notice, hearing, and exemption of taxes from capture  
26 provisions described in this section.

City of Royal Oak, MI  
Tuesday, January 10, 2017

## Chapter 420. Library

[HISTORY: Adopted by the City Commission of the City of Royal Oak as indicated in article histories. Amendments noted where applicable.]

### **CHARTER REFERENCES**

Library Board — See Ch. 3, Sec. 48.

### **GENERAL REFERENCES**

Theft and destruction of library property — See Ch. 278.

## Article I. Library Board; Funding

[Adopted 1-28-1929 by Ord. No. 215]

### § 420-1. Appropriations; funds.

[Amended 5-14-1945 by Ord. No. 459]

The City of Royal Oak shall maintain the Public Library established in said City as a free Public Library and for such purpose the Commission shall include in the annual budget such sum as may be deemed necessary for the purpose of maintaining said library. The amount so appropriated shall be known as the "Library Fund." Whenever the City Commission shall determine by resolution that it is expedient to purchase ground and buildings, or construct buildings for library purposes, it may raise such moneys as deemed necessary for said purpose, and the amount so raised shall be known as the "Library Building Fund."

### § 420-2. Library Board of Directors established; appointments; terms.

[Amended 11-27-1939 by Ord. No. 371; 7-6-1943 by Ord. No. 432; 3-13-1978 by Ord. No. 78-9; 4-22-1996 by Ord. No. 96-9]

The Public Library shall be administered by a Library Board which shall consist of nine Directors, who shall be residents of the City of Royal Oak and shall serve without compensation. The Directors shall be appointed by the Mayor with the approval of the City Commission; one of the Directors may be a member of the City Commission. The term of appointment of a Director shall be three years; present members of the Library Board may serve as Directors until their existing respective terms expire.

### § 420-3. Organization of Board; officials; quorum.

[Amended 11-27-1939 by Ord. No. 371; 3-13-1978 by Ord. No. 78-9; 4-22-1996 by Ord. No. 96-9; 6-17-2002 by Ord. No. 2002-01]

The Board of Directors shall organize by electing annually at its regular meeting in January a President, Vice President, Secretary, and such other officials as may be necessary for the proper conduct of the duties of the Board. Officers or other officials previously elected in July 2001 will continue to hold office until the next election. Five members of the Board shall constitute a quorum for the transaction of business.

## **§ 420-4. Powers and duties of Board; building maintenance.**

[Amended 11-27-1939 by Ord. No. 371; 5-14-1945 by Ord. No. 459]

- A. It shall be the duty of the Library Board to control and govern the library reading rooms, branches and stations established or to be established, and for that purpose it may make or adopt such bylaws, rules or regulations as may be expedient and not inconsistent with the Charter of the City and the general laws of the State of Michigan. It shall have the power to appoint a librarian, library assistants, and other library employees as may be required, fix their compensation within the limits of the library budget and terminate their employment, subject to civil service rules and regulations. It shall have the care and custody of the books, magazines, furniture, fixtures and equipment in said library and shall keep such property properly and adequately insured against loss or damage by fire or other casualty in such amounts and with such insurers as shall be approved by said Board. Such policies of insurance shall be deposited with the City Clerk for safe keeping. Said Library Board shall have the power to impose and collect reasonable fines for the infringement of established rules and regulations. It may enter into contract with other municipalities for furnishing the use of its library facilities and services and make reasonable charges therefor; it may establish and collect fees for use of such services and facilities by nonresidents of the City; it may accept donations, contributions and gifts, either general or for specific purposes, and may expend the money so received in accordance with any lawful stipulation imposed by the donor; it may receive any moneys appropriated to it by the state and disburse same in accordance with the laws governing such disbursement. All moneys received by the Library Board shall be deposited with the City Treasurer and, except as otherwise provided by law or ordinance, credited to the general fund.
- B. The Library Board shall have power to purchase books, magazines, periodicals, library equipment and supplies and incur such other expenditures for library purposes as may be deemed necessary or proper; provided, however, that no purchase or lease or single item of expense in excess of the sum of \$500 shall be made without the approval of the City Commission. Vouchers for payment of library purchases, salaries and other expenses shall be approved by the Library Board. Expenditures by the Library Board, except from state aid funds and funds given in trust for special purposes, shall be limited to the amount appropriated by the City Commission for library purposes.
- C. The City Commission shall provide suitable quarters for housing the library and shall provide janitor service, maintenance and heating therefor. Such janitor service and maintenance shall be under the supervision of the City Manager.

## **§ 420-5. Construction of new buildings.**

Whenever the construction of a library building or buildings is contemplated, it shall be the duty of the Library Board to prepare detailed plans and specifications for the same. Such plans and specifications may be prepared by the Library Board on its own initiative whenever it believes that the construction of such building or buildings is necessary or desirable, or shall be prepared whenever requested by the Commission. Said plans and specifications shall be submitted to the Commission for approval or rejection, and if approved shall be filed with the City Clerk, and estimates of the cost of said construction shall be prepared under direction of the City Manager. If not approved, same shall be returned to the Library Board with reasons for their rejection. In case the Library Board fails to prepare

such plans when so requested, same shall be prepared under direction of the City Manager. The contract or contracts for such construction shall be let by the Commission as provided by Sections 2 to 10, inclusive, Chapter 15 of the City Charter. Such contract shall provide that a representative of the Library Board shall have the right to inspect the work and make objections to any improper or defective or unauthorized work or materials used in such construction. The Library Board shall designate one of their number to cooperate with the City Manager in the superintendence of the construction of any such building or buildings.

### **§ 420-6. Records and reports.**

The said Board shall keep a complete record of its proceedings, and the same shall be public records. It shall make at the end of the fiscal year and at any other times when requested by the Commission, a report to the City Commission, stating the condition of their trust; an account of all moneys received; how much money has been expended from the Library Fund and other sources and for what purposes; the number of books and periodicals on hand; the number added by purchase or gift during the year; the number lost, missing or worn out; the number of books loaned out, and such other statistics, information and suggestions as it may deem of general interest.

### **§ 420-7. Budget.**

Not later than 40 days before the end of each fiscal year, the Library Board shall furnish the City Manager with an estimate of the annual budget required for the ensuing fiscal year, which budget shall be submitted to the Commission for approval or rejection at the time the general budget of the City is so submitted. If rejected the Commission may either amend the budget and approve same as amended, or may return said budget to the Library Board with reasons for its rejection, and request an amended budget from said Board. When the library budget has been approved by the Commission, the Commission shall levy such tax as may be necessary to meet the budget appropriation for library purposes. The Library Board shall not expend in any one year a greater amount than the amount so approved by the Commission when fixing the budget appropriation for library purposes; provided, however, the Commission may by resolution authorize additional expenditures by the Library Board and appropriate money therefor from the contingent fund.

### **§ 420-8. Custody of funds; petty cash fund; money received in trust.**

[Amended 5-14-1945 by Ord. No. 459]

The City Treasurer shall have custody of all money belonging to the Library Fund, including cash receipts, and shall pay out such money only upon proper vouchers as authorized by the City Charter; provided, however, the Library Board may keep a petty cash fund of not exceeding \$100 for the handling of petty cash disbursements. The custodian of said petty cash fund shall be designated by the Library Board and shall be required to furnish a bond of not less than \$1,000. Any money received by the Library in trust for specific purposes shall be paid out only in accordance with the terms of said trust. A report of all such gifts and disbursements made therefrom shall be included in the annual report to the City Commission.

### **§ 420-9. Use by inhabitants and nonresidents; exclusion of violators.**

[Amended 11-27-1939 by Ord. No. 371; 5-14-1945 by Ord. No. 459]

- A. The Library Board shall maintain the said Public Library for the use and benefit of the inhabitants and freeholders of the City of Royal Oak.
- B. All inhabitants and freeholders of the City shall have free use of said library, subject only to such reasonable rules and regulations as may be adopted by said Board, and subject further to the right of said Board to exclude from the use of the Library any and all persons who shall willfully violate said rules. Nonresidents may be granted permission to use the library under such conditions and upon payment of such fees as may be prescribed by the Library Board.

## Article II. Use of Facilities and Materials

[Adopted 5-19-2008 by Ord. No. 2008-06]

### § 420-10. Internet or computer access.

- A. If the library offers use of the internet or a computer, computer program, computer network, or computer system to the public, the library shall restrict access to minors by providing the use of the internet or a computer, computer program, computer network, or computer system in the following way:
  - (1) By making available, to individuals of any age, one or more terminals that are restricted from receiving obscene matter or sexually explicit matter that is harmful to minors; and
  - (2) By reserving to individuals 18 years of age or older, or minors who are accompanied by their parent or guardian, no more than one terminal that is not restricted from receiving any material.
- B. For purposes of this section, the following terms shall have the following meanings:

#### **COMPUTER**

Any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations, including logical, arithmetic, or memory functions, with or on computer data or a computer program, and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

#### **COMPUTER NETWORK**

The interconnection of hardware or wireless communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

#### **COMPUTER PROGRAM**

A series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

#### **COMPUTER SYSTEM**

A set of related, connected or unconnected computer equipment, devices, software, or hardware.

#### **DEVICE**

Includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

**HARMFUL TO MINORS**

That term as it is defined in MCLA § 722.674, as amended.

**INTERNET**

That term as it is defined in section 230 of title II of the Communications Act of 1934, Chapter 652, 110 Stat. 137, 47 U.S.C. § 230, as amended.

**MINOR**

An individual who is less than 18 years of age.

**OBSCENE**

That term as it is defined in MCLA § 752.362, as amended.

**SEXUALLY EXPLICIT MATTER**

That term as it is defined in MCLA § 722.673, as amended.

**TERMINAL**

A device used to access the internet or a computer, computer program, computer network, or computer system.