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BILL ANALYSIS

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Senate Bill 1139 (as reported without amendment) *(as enrolled)*
Sponsor: Senator Mike Nofs
Committee: Commerce and Tourism

Date Completed: 3-5-10

RATIONALE

Public Acts 37, 38, 39, and 40 of 2007 amended the Revised School Code, the State Education Tax (SET) Act, the plant rehabilitation and industrial development Act (commonly referred to as P.A. 198), and the General Property Tax Act, respectively, to exempt commercial and industrial personal property from the SET and school operating mills. Public Acts 154, 155, 156, and 157 of 2008 amended the Brownfield Redevelopment Financing Act, the Local Development Financing Act (LDFA), the Tax Increment Finance Authority (TIFA) Act, and the downtown development authority (DDA) Act, respectively, to provide for SET revenue to be paid to various authorities, if the amount of tax increment revenue they lost as a result of Public Acts 37 to 40 of 2007 reduced the allowable school tax capture the authorities received in a fiscal year. Under the 2008 legislation, an authority eligible to have SET revenue retained and paid to it had to apply for approval with the Department of Treasury by June 15, 2008, and by June 1 of each subsequent year.

In 2009, apparently some DDAs and TIFAs inadvertently missed the June 1 deadline to apply for the retention of SET revenue. Public Acts 213 and 214 of 2009 amended the DDA Act and the TIFA Act, respectively, to extend the deadline for application to September 30 for 2009 only, and to give the Department extra time to respond to those applications. At least one local development finance authority also missed the 2009 application deadline, and it has been suggested that the 2009 application and response deadlines for local development finance authorities be extended as well.

CONTENT

The bill would amend the Local Development Financing Act to revise the 2009 deadline for a local development finance authority to apply with the Department of Treasury for approval to have taxes levied under the State Education Tax Act retained and paid to the authority. The bill also would revise the 2009 deadline for the Department to approve, modify, or deny an application.

Under the LDFA, a local government may create a local development financing authority to finance public improvements in a given area, by capturing increases in property tax revenue due to increased value. If the amount of tax increment revenue lost as a result of the personal property tax exemptions enacted by Public Acts 37 through 40 of 2007 will reduce the allowable school tax capture received in a fiscal year by a local development finance authority, the authority, with the approval of the Department of Treasury, may request the local tax collecting treasurer to retain and pay to the authority taxes levied under the SET Act to be used for certain purposes.

If an authority is eligible to have SET revenue retained and paid to the authority, it had to apply for approval with the Department of Treasury by June 15, 2008, and June 1, 2009, and must apply by June 1 of each subsequent year. The Department must approve, modify, or deny the application by August 15 of each year.

Under the bill, the 2009 deadline for an authority to apply for approval would be September 30. For 2009 only, the deadline for the Department to approve, modify, or deny the application would be 30 days after the bill's effective date.

MCL 125.2161b

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would provide a one-time extension of the annual filing deadline for a local development finance authority to apply to the Department of Treasury for the local tax collecting treasurer to retain and pay to the authority taxes levied under the SET Act. At least one local development finance authority inadvertently missed the 2009 deadline to request the Department's approval, and the bill would allow its late application to be considered. Public Acts 213 and 214 of 2009, which took effect on January 4, 2010, made the same accommodation for certain DDAs and TIFAs that missed the 2009 deadline.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The change in the 2009 deadlines would likely result in a small increase in the number of applications from local development finance authorities to the Michigan Department of Treasury. Given this change in the number of applications, the bill could result in a reduction in State revenue by an unknown amount related to the School Aid Fund and an increase in School Aid Fund expenditures by an unknown amount.

The reason for the increase in School Aid Fund expenditures is that the State is required to maintain per-pupil funding guarantees for any captured school operating taxes and/or captured State Education Tax.

Fiscal Analyst: Eric Scorsone

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