

SENATE BILL No. 1139

February 23, 2010, Introduced by Senators NOFS and BISHOP and referred to the Committee on Commerce and Tourism.

A bill to amend 1986 PA 281, entitled
"The local development financing act,"
by amending section 11b (MCL 125.2161b), as added by 2008 PA 155.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11b. (1) If the amount of tax increment revenues lost as
2 a result of the personal property tax exemptions provided by
3 section 1211(4) of the revised school code, 1976 PA 451, MCL
4 380.1211, section 3 of the state education tax act, 1993 PA 331,
5 MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section
6 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will
7 reduce the allowable school tax capture received in a fiscal year,
8 then, notwithstanding any other provision of this act, the
9 authority, with approval of the department of treasury under
10 subsection (3), may request the local tax collecting treasurer to

1 retain and pay to the authority taxes levied under the state
2 education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used
3 for the following:

4 (a) To repay an eligible advance.

5 (b) To repay an eligible obligation.

6 (c) To repay an other protected obligation.

7 (d) To pay an advance or an obligation identified in a
8 development plan, or an amendment to that plan for property located
9 in a certified technology park approved by board of the authority
10 not later than 90 days after the effective date of the amendatory
11 act that added this section if the plan contains all of the
12 following and the plan for the capture of school taxes has been
13 approved within 1 year after the effective date of the amendatory
14 act that added this section:

15 (i) A detailed description of the project.

16 (ii) A statement of the estimated cost of the project.

17 (iii) The specific location of the project.

18 (iv) The name of any developer of the project.

19 (2) Not later than June 15, ~~of~~ 2008, **NOT LATER THAN SEPTEMBER**
20 **30, 2009**, and not later than June 1 of each subsequent year, an
21 authority eligible under subsection (1) to have taxes levied under
22 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
23 retained and paid to the authority under this section, shall apply
24 for approval with the department of treasury. The application for
25 approval shall include the following information:

26 (a) The property tax millage rates expected to be levied by
27 local school districts within the jurisdictional area of the

1 authority for school operating purposes for that fiscal year.

2 (b) The tax increment revenues estimated to be received by the
3 authority for that fiscal year based upon actual property tax
4 levies of all taxing jurisdictions within the jurisdictional area
5 of the authority.

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

9 (d) A list of eligible obligations, eligible advances, other
10 protected obligations, and advances and obligations described in
11 subsection (1)(d) for expenditures authorized in a certified
12 technology park; the payments due on each of those in that fiscal
13 year; and the total amount of payments due on all of those in that
14 fiscal year.

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

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

5 (3) Not later than August 15, 2008; **FOR 2009 ONLY, NOT LATER**
6 **THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
7 **AMENDED THIS SENTENCE; AND NOT LATER THAN AUGUST 15 OF EACH**
8 **SUBSEQUENT YEAR**, based on the calculations under subsection (5),
9 the department of treasury shall approve, modify, or deny the
10 application for approval to have taxes levied under the state
11 education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained
12 and paid to the authority under this section. If the application
13 for approval contains the information required under subsection
14 (2)(a) through (f) and appears to be in substantial compliance with
15 the provisions of this section, then the department of treasury
16 shall approve the application. If the application is denied by the
17 department of treasury, then the department of treasury shall
18 provide the opportunity for a representative of the authority to
19 discuss the denial within 21 days after the denial occurs and shall
20 sustain or modify its decision within 30 days after receiving
21 information from the authority. If the application for approval is
22 approved or modified by the department of treasury, the local tax
23 collecting treasurer shall retain and pay to the authority the
24 amount described in subsection (5) as approved by the department.
25 If the department of treasury denies the authority's application
26 for approval, the local tax collecting treasurer shall not retain
27 or pay to the authority the taxes levied under the state education

1 tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the
2 department does not prohibit a subsequent audit of taxes retained
3 in accordance with the procedures currently authorized by law.

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

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

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

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

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

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

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

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

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

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

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

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

25 (11) It is the intent of the legislature that, to the extent
26 that the total amount of taxes levied under the state education tax
27 act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be

1 retained under this section and section 15a of the brownfield
2 redevelopment financing act, 1996 PA 381, MCL 125.2665a, section
3 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b,
4 and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the
5 difference of the total school aid fund revenue for the tax year
6 minus the estimated amount of revenue the school aid fund would
7 have received for the tax year had the tax exemptions described in
8 subsection (1) and the earmark created by section 515 of the
9 Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken
10 effect, the general fund shall reimburse the school aid fund the
11 difference.