

# HOUSE BILL No. 6129

May 5, 2010, Introduced by Rep. Roy Schmidt and referred to the Committee on Intergovernmental and Regional Affairs.

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending section 15a (MCL 125.2665a), as added by 2008 PA 154.

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

1           Sec. 15a. (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

1 subsection (3), may request the local tax collecting treasurer to  
2 retain and pay to the authority taxes levied within the  
3 municipality under the state education tax act, 1993 PA 331, MCL  
4 211.901 to 211.906, to be used for the following:

5 (a) To repay an advance made not later than 1 year after ~~the~~  
6 ~~effective date of the amendatory act that added this section~~ **JUNE**  
7 **5, 2008.**

8 (b) To repay an obligation issued or incurred not later than 1  
9 year after ~~the effective date of the amendatory act that added this~~  
10 ~~section~~ **JUNE 5, 2008.**

11 (c) To pay or reimburse a developer or owner of eligible  
12 property or a municipality that created the authority for eligible  
13 activities pursuant to a development and reimbursement agreement  
14 entered into not later than 1 year after ~~the effective date of the~~  
15 ~~amendatory act that added this section~~ **JUNE 5, 2008.**

16 (d) To pay for eligible activities identified in a brownfield  
17 plan, or an amendment to that plan approved by board of the  
18 authority not later than 90 days after the effective date of the  
19 amendatory act that added this section if the plan contains all of  
20 the following and the work plan for the capture of school taxes has  
21 been approved within 1 year after ~~the effective date of the~~  
22 ~~amendatory act that added this section~~ **JUNE 5, 2008:**

23 (i) A detailed description of the project.

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

25 (iii) The specific location of the project.

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

27 (2) Not later than June 15, ~~of~~ 2008, **NOT LATER THAN SEPTEMBER**

1 30, 2009, and not later than June 1 of each subsequent year, an  
2 authority eligible under subsection (1) to have taxes levied under  
3 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,  
4 retained and paid to the authority under this section, shall apply  
5 for approval with the department of treasury. The application for  
6 approval shall include the following information:

7 (a) The property tax millage rates expected to be levied by  
8 local school districts within the jurisdictional area of the  
9 authority for school operating purposes for that fiscal year.

10 (b) The tax increment revenues estimated to be received by the  
11 authority for that fiscal year based upon actual property tax  
12 levies of all taxing jurisdictions within the jurisdictional area  
13 of the authority.

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

17 (d) A list of advances, obligations, development and  
18 reimbursement agreements, and projects included in brownfield plans  
19 described in subsection (1), and shall separately identify the  
20 payments due on each of those advances, obligations, development  
21 agreements, and eligible activities in that fiscal year, and the  
22 total amount of all the payments due on all of those in that fiscal  
23 year.

24 (e) The amount of money, other than tax increment revenues,  
25 estimated to be received in that fiscal year by the authority that  
26 is primarily pledged to, or would be used for, the repayment of an  
27 advance, the payment of an obligation, the payment of eligible

1 activities pursuant to a development and reimbursement agreement,  
2 or the payment of eligible activities identified in a brownfield  
3 plan described in subsection (1). That amount shall not include  
4 excess tax increment revenues of the authority that are permitted  
5 by law to be retained by the authority for purposes that further  
6 the development program. However, that amount shall include money  
7 to be obtained from sources authorized by law, which law is enacted  
8 on or after December 1, 1993, for use by the municipality or  
9 authority to finance a development plan.

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

14 (3) Not later than August 15, 2008; **FOR 2009 ONLY, NOT LATER**  
15 **THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**  
16 **AMENDED THIS SENTENCE; AND NOT LATER THAN AUGUST 15 OF EACH**  
17 **SUBSEQUENT YEAR**, based on the calculations under subsection (5),  
18 the department of treasury shall approve, modify, or deny the  
19 application for approval to have taxes levied under the state  
20 education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained  
21 and paid to the authority under this section. If the application  
22 for approval contains the information required under subsection  
23 (2)(a) through (f) and appears to be in substantial compliance with  
24 the provisions of this section, then the department of treasury  
25 shall approve the application. If the application is denied by the  
26 department of treasury, then the department of treasury shall  
27 provide the opportunity for a representative of the authority to

1 discuss the denial within 21 days after the denial occurs and shall  
2 sustain or modify its decision within 30 days after receiving  
3 information from the authority. If the application for approval is  
4 approved or modified by the department of treasury, the local tax  
5 collecting treasurer shall retain and pay to the authority the  
6 amount described in subsection (5) as approved by the department of  
7 treasury. If the department of treasury denies the authority's  
8 application for approval, the local tax collecting treasurer shall  
9 not retain or pay to the authority the taxes levied under the state  
10 education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval  
11 by the department does not prohibit a subsequent audit of taxes  
12 retained in accordance with the procedures currently authorized by  
13 law.

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

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

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

22 (5) Subject to subsection (6), the aggregate amount under this  
23 section shall be the sum of the amounts determined under  
24 subdivisions (a) and (b) minus the amount determined under  
25 subdivision (c), as follows:

26 (a) The amount by which the tax increment revenues the  
27 authority would have received and retained for the fiscal year,

1 excluding taxes exempt under section 7ff of the general property  
2 tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax  
3 exemptions described in subsection (1) were not in effect, exceed  
4 the tax increment revenues the authority actually received for the  
5 fiscal year.

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

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

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

15 (7) Obligations for which distributions are made under this  
16 section are not a debt or liability of this state; do not create or  
17 constitute an indebtedness, liability, or obligation of this state;  
18 and are not and do not constitute a pledge of the faith and credit  
19 of this state.

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

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

1           (10) The state tax commission may provide that the  
2 calculations under this section and the calculation of allowable  
3 capture of school taxes shall be made for each calendar year's tax  
4 increment revenues using a 12-month debt payment period used by the  
5 authority and approved by the state tax commission.

6           (11) It is the intent of the legislature that, to the extent  
7 that the total amount of taxes levied under the state education tax  
8 act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be  
9 retained under this section and section 11b of the local  
10 development financing act, 1986 PA 281, MCL 125.2161b, section 12b  
11 of the tax increment financing act, 1980 PA 450, MCL 125.1812b, and  
12 section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference  
13 of the total school aid fund revenue for the tax year minus the  
14 estimated amount of revenue the school aid fund would have received  
15 for the tax year had the tax exemptions described in subsection (1)  
16 and the earmark created by section 515 of the Michigan business tax  
17 act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund  
18 shall reimburse the school aid fund the difference.

19           (12) As used in this section:

20           (a) "Advance" means that term as defined in section 1 of 1975  
21 PA 197, MCL 125.1651.

22           (b) "Obligation" means that term as defined in section 1 of  
23 1975 PA 197, MCL 125.1651.