

HOUSE BILL No. 6326

August 9, 2006, Introduced by Reps. Miller, Alma Smith, Tobocman, Polidori, Hood, Kolb, Sak, Hunter, Espinoza, Mayes, Vagnozzi, Zelenko, Clack, Cushingberry, Kathleen Law, Plakas, Accavitti, Angerer, Condino, Bennett, Bieda, Leland, Lemmons, Jr., McDowell, Byrum, Gillard, Murphy, Meisner and Lemmons, III and referred to the Committee on Commerce.

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending sections 2 and 13 (MCL 125.2652 and 125.2663), as
amended by 2006 PA 32.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Additional response activities" means response activities
3 identified as part of a brownfield plan that are in addition to
4 baseline environmental assessment activities and due care
5 activities for an eligible property.

6 (b) "Authority" means a brownfield redevelopment authority
7 created under this act.

8 (c) "Baseline environmental assessment" means that term as

1 defined in section 20101 of the natural resources and environmental
2 protection act, 1994 PA 451, MCL 324.20101.

3 (d) "Baseline environmental assessment activities" means those
4 response activities identified as part of a brownfield plan that
5 are necessary to complete a baseline environmental assessment for
6 an eligible property in the brownfield plan.

7 (e) "Blighted" means property that meets any of the following
8 criteria:

9 (i) Has been declared a public nuisance in accordance with a
10 local housing, building, plumbing, fire, or other related code or
11 ordinance.

12 (ii) Is an attractive nuisance to children because of physical
13 condition, use, or occupancy.

14 (iii) Is a fire hazard or is otherwise dangerous to the safety
15 of persons or property.

16 (iv) Has had the utilities, plumbing, heating, or sewerage
17 permanently disconnected, destroyed, removed, or rendered
18 ineffective so that the property is unfit for its intended use.

19 (v) Is tax reverted property owned by a qualified local
20 governmental unit, by a county, or by this state. The sale, lease,
21 or transfer of tax reverted property by a qualified local
22 governmental unit, county, or this state after the property's
23 inclusion in a brownfield plan shall not result in the loss to the
24 property of the status as blighted property for purposes of this
25 act.

26 (vi) Is property owned or under the control of a land bank fast
27 track authority under the land bank fast track act, whether or not

1 located within a qualified local governmental unit. Property
2 included within a brownfield plan prior to the date it meets the
3 requirements of this subdivision to be eligible property shall be
4 considered to become eligible property as of the date the property
5 is determined to have been or becomes qualified as, or is combined
6 with, other eligible property. The sale, lease, or transfer of the
7 property by a land bank fast track authority after the property's
8 inclusion in a brownfield plan shall not result in the loss to the
9 property of the status as blighted property for purposes of this
10 act.

11 (f) "Board" means the governing body of an authority.

12 (g) "Brownfield plan" means a plan that meets the requirements
13 of section 13 and is adopted under section 14.

14 (h) "Captured taxable value" means the amount in 1 year by
15 which the current taxable value of an eligible property subject to
16 a brownfield plan, including the taxable value or assessed value,
17 as appropriate, of the property for which specific taxes are paid
18 in lieu of property taxes, exceeds the initial taxable value of
19 that eligible property. The state tax commission shall prescribe
20 the method for calculating captured taxable value.

21 (i) "Chief executive officer" means the mayor of a city, the
22 village manager of a village, the township supervisor of a
23 township, or the county executive of a county or, if the county
24 does not have an elected county executive, the chairperson of the
25 county board of commissioners.

26 (j) "Department" means the department of environmental
27 quality.

1 (k) "Due care activities" means those response activities
2 identified as part of a brownfield plan that are necessary to allow
3 the owner or operator of an eligible property in the plan to comply
4 with the requirements of section 20107a of the natural resources
5 and environmental protection act, 1994 PA 451, MCL 324.20107a.

6 (l) "Economic opportunity zone" means 1 or more parcels of
7 property that meet all of the following:

8 (i) That together are 40 or more acres in size.

9 (ii) That contain a manufacturing facility that consists of
10 500,000 or more square feet.

11 (iii) That are located in a municipality that has a population
12 of 30,000 or less and that is contiguous to a qualified local
13 governmental unit.

14 (m) "Eligible activities" or "eligible activity" does not
15 include activities related to multisource commercial hazardous
16 waste disposal wells as that term is defined in section 62506a of
17 the natural resources and environmental protection act, 1994 PA
18 451, MCL 324.62506a, but means 1 or more of the following:

19 (i) Baseline environmental assessment activities.

20 (ii) Due care activities.

21 (iii) Additional response activities.

22 (iv) For eligible activities on eligible property that was used
23 or is currently used for commercial, industrial, or residential
24 purposes that is in a qualified local governmental unit, that is
25 owned or under the control of a land bank fast track authority, or
26 that is located in an economic opportunity zone, and is a facility,
27 functionally obsolete, or blighted, and except for purposes of

1 section 38d of the single business tax act, 1975 PA 228, MCL
2 208.38d, the following additional activities:

3 (A) Infrastructure improvements that directly benefit eligible
4 property.

5 (B) Demolition of structures that is not response activity
6 under section 20101 of the natural resources and environmental
7 protection act, 1994 PA 451, MCL 324.20101.

8 (C) Lead or asbestos abatement.

9 (D) Site preparation that is not response activity under
10 section 20101 of the natural resources and environmental protection
11 act, 1994 PA 451, MCL 324.20101.

12 (E) Assistance to a land bank fast track authority in clearing
13 or quieting title to, or selling or otherwise conveying, property
14 owned or under the control of a land bank fast track authority.

15 (v) Relocation of public buildings or operations for economic
16 development purposes with prior approval of the Michigan economic
17 development authority.

18 (vi) For eligible activities on eligible property that is a
19 qualified facility that is not located in a qualified local
20 governmental unit and that is a facility, functionally obsolete, or
21 blighted, the following additional activities:

22 (A) Infrastructure improvements that directly benefit eligible
23 property.

24 (B) Demolition of structures that is not response activity
25 under section 20101 of the natural resources and environmental
26 protection act, 1994 PA 451, MCL 324.20101.

27 (C) Lead or asbestos abatement.

1 (D) Site preparation that is not response activity under
2 section 20101 of the natural resources and environmental protection
3 act, 1994 PA 451, MCL 324.20101.

4 (n) "Eligible property" means property for which eligible
5 activities are identified under a brownfield plan that was used or
6 is currently used for commercial, industrial, or residential
7 purposes that is either in a qualified local governmental unit and
8 is a facility, functionally obsolete, or blighted or is not in a
9 qualified local governmental unit and is a facility, and includes
10 parcels that are adjacent or contiguous to that property if the
11 development of the adjacent and contiguous parcels is estimated to
12 increase the captured taxable value of that property or tax
13 reverted property owned or under the control of a land bank fast
14 track authority. Eligible property includes, to the extent included
15 in the brownfield plan, personal property located on the property.
16 Eligible property does not include qualified agricultural property
17 exempt under section 7ee of the general property tax act, 1893 PA
18 206, MCL 211.7ee, from the tax levied by a local school district
19 for school operating purposes to the extent provided under section
20 1211 of the revised school code, 1976 PA 451, MCL 380.1211. **FOR**
21 **BROWNFIELD PLANS ADOPTED OR AMENDED AFTER JANUARY 1, 2006, ELIGIBLE**
22 **PROPERTY DOES NOT INCLUDE PROPERTY OWNED OR LEASED BY A PERSON WHO**
23 **HAS BEEN FOUND GUILTY OF A CRIMINAL VIOLATION OR FOUND RESPONSIBLE**
24 **FOR A CIVIL VIOLATION UNDER 29 USC 1131 OR 1132 IN THE IMMEDIATELY**
25 **PRECEDING 10 YEARS FROM THE DATE OF THE ADOPTION OR AMENDMENT OF**
26 **THE BROWNFIELD PLAN UNDER THIS ACT.**

27 (o) "Facility" means that term as defined in section 20101 of

1 the natural resources and environmental protection act, 1994 PA
2 451, MCL 324.20101.

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

4 (q) "Functionally obsolete" means that the property is unable
5 to be used to adequately perform the function for which it was
6 intended due to a substantial loss in value resulting from factors
7 such as overcapacity, changes in technology, deficiencies or
8 superadequacies in design, or other similar factors that affect the
9 property itself or the property's relationship with other
10 surrounding property.

11 (r) "Governing body" means the elected body having legislative
12 powers of a municipality creating an authority under this act.

13 (s) "Infrastructure improvements" means a street, road,
14 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
15 sewage treatment plant, property designed to reduce, eliminate, or
16 prevent the spread of identified soil or groundwater contamination,
17 drainage system, waterway, waterline, water storage facility, rail
18 line, utility line or pipeline, or other similar or related
19 structure or improvement, together with necessary easements for the
20 structure or improvement, owned or used by a public agency or
21 functionally connected to similar or supporting property owned or
22 used by a public agency, or designed and dedicated to use by, for
23 the benefit of, or for the protection of the health, welfare, or
24 safety of the public generally, whether or not used by a single
25 business entity, provided that any road, street, or bridge shall be
26 continuously open to public access and that other property shall be
27 located in public easements or rights-of-way and sized to

1 accommodate reasonably foreseeable development of eligible property
2 in adjoining areas.

3 (t) "Initial taxable value" means the taxable value of an
4 eligible property identified in and subject to a brownfield plan at
5 the time the resolution adding that eligible property in the
6 brownfield plan is adopted, as shown either by the most recent
7 assessment roll for which equalization has been completed at the
8 time the resolution is adopted or, if provided by the brownfield
9 plan, by the next assessment roll for which equalization will be
10 completed following the date the resolution adding that eligible
11 property in the brownfield plan is adopted. Property exempt from
12 taxation at the time the initial taxable value is determined shall
13 be included with the initial taxable value of zero. Property for
14 which a specific tax is paid in lieu of property tax shall not be
15 considered exempt from taxation. The state tax commission shall
16 prescribe the method for calculating the initial taxable value of
17 property for which a specific tax was paid in lieu of property tax.

18 (u) "Land bank fast track authority" means an authority
19 created under the land bank fast track act, 2003 PA 258, MCL
20 124.751 to 124.774.

21 (v) "Local taxes" means all taxes levied other than taxes
22 levied for school operating purposes.

23 (w) "Municipality" means all of the following:

24 (i) A city.

25 (ii) A village.

26 (iii) A township in those areas of the township that are outside
27 of a village.

1 (iv) A township in those areas of the township that are in a
2 village upon the concurrence by resolution of the village in which
3 the zone would be located.

4 (v) A county.

5 (x) "Owned or under the control of" means that a land bank
6 fast track authority has 1 or more of the following:

7 (i) An ownership interest in the property.

8 (ii) A tax lien on the property.

9 (iii) A tax deed to the property.

10 (iv) A contract with this state or a political subdivision of
11 this state to enforce a lien on the property.

12 (v) A right to collect delinquent taxes, penalties, or
13 interest on the property.

14 (vi) The ability to exercise its authority over the property.

15 (y) "Qualified facility" means a landfill facility area of 140
16 or more contiguous acres that is located in a city and that
17 contains a landfill, a material recycling facility, and an asphalt
18 plant that are no longer in operation.

19 (z) "Qualified local governmental unit" means that term as
20 defined in the obsolete property rehabilitation act, 2000 PA 146,
21 MCL 125.2781 to 125.2797.

22 (aa) "Qualified taxpayer" means that term as defined in
23 sections 38d and 38g of the single business tax act, 1975 PA 228,
24 MCL 208.38d and 208.38g.

25 (bb) "Remedial action plan" means a plan that meets both of
26 the following requirements:

27 (i) Is a remedial action plan as that term is defined in

1 section 20101 of the natural resources and environmental protection
2 act, 1994 PA 451, MCL 324.20101.

3 (ii) Describes each individual activity to be conducted to
4 complete eligible activities and the associated costs of each
5 individual activity.

6 (cc) "Response activity" means that term as defined in section
7 20101 of the natural resources and environmental protection act,
8 1994 PA 451, MCL 324.20101.

9 (dd) "Specific taxes" means a tax levied under 1974 PA 198,
10 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
11 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
12 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
13 technology park development act, 1984 PA 385, MCL 207.701 to
14 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
15 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
16 147, MCL 207.771 to 207.786; or that portion of the tax levied
17 under the tax reverted clean title act, 2003 PA 260, MCL 211.1021
18 to 211.1026, that is not required to be distributed to a land bank
19 fast track authority.

20 (ee) "Tax increment revenues" means the amount of ad valorem
21 property taxes and specific taxes attributable to the application
22 of the levy of all taxing jurisdictions upon the captured taxable
23 value of each parcel of eligible property subject to a brownfield
24 plan and personal property located on that property. Tax increment
25 revenues exclude ad valorem property taxes specifically levied for
26 the payment of principal of and interest on either obligations
27 approved by the electors or obligations pledging the unlimited

1 taxing power of the local governmental unit, and specific taxes
2 attributable to those ad valorem property taxes. Tax increment
3 revenues attributable to eligible property also exclude the amount
4 of ad valorem property taxes or specific taxes captured by a
5 downtown development authority, tax increment finance authority, or
6 local development finance authority if those taxes were captured by
7 these other authorities on the date that eligible property became
8 subject to a brownfield plan under this act.

9 (ff) "Taxable value" means the value determined under section
10 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

11 (gg) "Taxes levied for school operating purposes" means all of
12 the following:

13 (i) The taxes levied by a local school district for operating
14 purposes.

15 (ii) The taxes levied under the state education tax act, 1993
16 PA 331, MCL 211.901 to 211.906.

17 (iii) That portion of specific taxes attributable to taxes
18 described under subparagraphs (i) and (ii).

19 (hh) "Work plan" means a plan that describes each individual
20 activity to be conducted to complete eligible activities and the
21 associated costs of each individual activity.

22 (ii) "Zone" means, for an authority established before June 6,
23 2000, a brownfield redevelopment zone designated under this act.

24 Sec. 13. (1) Subject to section 15, the board may implement a
25 brownfield plan. The brownfield plan may apply to 1 or more parcels
26 of eligible property whether or not those parcels of eligible
27 property are contiguous and may be amended to apply to additional

1 parcels of eligible property. Except as otherwise authorized by
2 this act, if more than 1 parcel of eligible property is included
3 within the plan, the tax increment revenues under the plan shall be
4 determined individually for each parcel of eligible property. Each
5 plan or an amendment to a plan shall be approved by the governing
6 body of the municipality and shall contain all of the following:

7 (a) A description of the costs of the plan intended to be paid
8 for with the tax increment revenues or, for a plan for eligible
9 properties qualified on the basis that the property is owned or
10 under the control of a land bank fast track authority, a listing of
11 all eligible activities that may be conducted for 1 or more of the
12 eligible properties subject to the plan.

13 (b) A brief summary of the eligible activities that are
14 proposed for each eligible property or, for a plan for eligible
15 properties qualified on the basis that the property is owned or
16 under the control of a land bank fast track authority, a brief
17 summary of eligible activities conducted for 1 or more of the
18 eligible properties subject to the plan.

19 (c) An estimate of the captured taxable value and tax
20 increment revenues for each year of the plan from each parcel of
21 eligible property, or from all eligible properties qualified on the
22 basis that the property is owned or under the control of a land
23 bank fast track authority, and in the aggregate. The plan may
24 provide for the use of part or all of the captured taxable value,
25 including deposits in the local site remediation revolving fund,
26 but the portion intended to be used shall be clearly stated in the
27 plan. The plan shall not provide either for an exclusion from

1 captured taxable value of a portion of the captured taxable value
2 or for an exclusion of the tax levy of 1 or more taxing
3 jurisdictions unless the tax levy is excluded from tax increment
4 revenues in section 2(dd), or unless the tax levy is excluded from
5 capture under section 15.

6 (d) The method by which the costs of the plan will be
7 financed, including a description of any advances made or
8 anticipated to be made for the costs of the plan from the
9 municipality.

10 (e) The maximum amount of note or bonded indebtedness to be
11 incurred, if any.

12 (f) The duration of the brownfield plan, which shall not
13 exceed the lesser of the period authorized under subsections (4)
14 and (5) or 30 years.

15 (g) An estimate of the impact of tax increment financing on
16 the revenues of all taxing jurisdictions in which the eligible
17 property is located.

18 (h) A legal description of each parcel of eligible property to
19 which the plan applies, a map showing the location and dimensions
20 of each eligible property, a statement of the characteristics that
21 qualify the property as eligible property, and a statement of
22 whether personal property is included as part of the eligible
23 property. If the project is on property that is functionally
24 obsolete, the taxpayer shall include, with the application, an
25 affidavit signed by a level 3 or level 4 assessor, that states that
26 it is the assessor's expert opinion that the property is
27 functionally obsolete and the underlying basis for that opinion.

1 (i) Estimates of the number of persons residing on each
2 eligible property to which the plan applies and the number of
3 families and individuals to be displaced. If occupied residences
4 are designated for acquisition and clearance by the authority, the
5 plan shall include a demographic survey of the persons to be
6 displaced, a statistical description of the housing supply in the
7 community, including the number of private and public units in
8 existence or under construction, the condition of those in
9 existence, the number of owner-occupied and renter-occupied units,
10 the annual rate of turnover of the various types of housing and the
11 range of rents and sale prices, an estimate of the total demand for
12 housing in the community, and the estimated capacity of private and
13 public housing available to displaced families and individuals.

14 (j) A plan for establishing priority for the relocation of
15 persons displaced by implementation of the plan.

16 (k) Provision for the costs of relocating persons displaced by
17 implementation of the plan, and financial assistance and
18 reimbursement of expenses, including litigation expenses and
19 expenses incident to the transfer of title, in accordance with the
20 standards and provisions of the uniform relocation assistance and
21 real property acquisition policies act of 1970, Public Law 91-646.

22 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
23 213.332.

24 (m) A description of proposed use of the local site
25 remediation revolving fund.

26 (n) Other material that the authority or governing body
27 considers pertinent.

1 (2) The percentage of all taxes levied on a parcel of eligible
2 property for school operating expenses that is captured and used
3 under a brownfield plan and all tax increment finance plans under
4 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance
5 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local
6 development financing act, 1986 PA 281, MCL 125.2151 to 125.2174,
7 shall not be greater than the combination of the plans' percentage
8 capture and use of all local taxes levied for purposes other than
9 for the payment of principal of and interest on either obligations
10 approved by the electors or obligations pledging the unlimited
11 taxing power of the local unit of government. This subsection shall
12 apply only when taxes levied for school operating purposes are
13 subject to capture under section 15.

14 (3) Except as provided in this subsection and subsections (5),
15 (15), and (16), tax increment revenues related to a brownfield plan
16 shall be used only for costs of eligible activities attributable to
17 the eligible property, the captured taxable value of which produces
18 the tax increment revenues, including the cost of principal of and
19 interest on any obligation issued by the authority to pay the costs
20 of eligible activities attributable to the eligible property, and
21 the reasonable costs of preparing a work plan or remedial action
22 plan for the eligible property, including the actual cost of the
23 review of the work plan or remedial action plan under section 15.
24 For property owned or under the control of a land bank fast track
25 authority, tax increment revenues related to a brownfield plan may
26 be used for eligible activities attributable to any eligible
27 property owned or under the control of the land bank fast track

1 authority, the cost of principal of and interest on any obligation
2 issued by the authority to pay the costs of eligible activities,
3 the reasonable costs of preparing a work plan or remedial action
4 plan, and the actual cost of the review of the work plan or
5 remedial action plan under section 15. Tax increment revenues
6 captured from taxes levied by this state under the state education
7 tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a
8 local school district shall not be used for eligible activities
9 described in section 2(m)(iv)(E).

10 (4) Except as provided in subsection (5), a brownfield plan
11 shall not authorize the capture of tax increment revenue from
12 eligible property after the year in which the total amount of tax
13 increment revenues captured is equal to the sum of the costs
14 permitted to be funded with tax increment revenues under this act.

15 (5) A brownfield plan may authorize the capture of additional
16 tax increment revenue from an eligible property in excess of the
17 amount authorized under subsection (4) during the time of capture
18 for the purpose of paying the costs permitted under subsection (3),
19 or for not more than 5 years after the time that capture is
20 required for the purpose of paying the costs permitted under
21 subsection (3), or both. Excess revenues captured under this
22 subsection shall be deposited in the local site remediation
23 revolving fund created under section 8 and used for the purposes
24 authorized in section 8. If tax increment revenues attributable to
25 taxes levied for school operating purposes from eligible property
26 are captured by the authority for purposes authorized under
27 subsection (3), the tax increment revenues captured for deposit in

1 the local site remediation revolving fund also may include tax
2 increment revenues attributable to taxes levied for school
3 operating purposes in an amount not greater than the tax increment
4 revenues levied for school operating purposes captured from the
5 eligible property by the authority for the purposes authorized
6 under subsection (3). Excess tax increment revenues from taxes
7 levied for school operating purposes for eligible activities
8 authorized under subsection (15) by the Michigan economic growth
9 authority shall not be captured for deposit in the local site
10 remediation revolving fund.

11 (6) An authority shall not expend tax increment revenues to
12 acquire or prepare eligible property, unless the acquisition or
13 preparation is an eligible activity.

14 (7) Costs of eligible activities attributable to eligible
15 property include all costs that are necessary or related to a
16 release from the eligible property, including eligible activities
17 on properties affected by a release from the eligible property. For
18 purposes of this subsection, "release" means that term as defined
19 in section 20101 of the natural resources and environmental
20 protection act, 1994 PA 451, MCL 324.20101.

21 (8) Costs of a response activity paid with tax increment
22 revenues that are captured pursuant to subsection (3) may be
23 recovered from a person who is liable for the costs of eligible
24 activities at an eligible property. This state or an authority may
25 undertake cost recovery for tax increment revenue captured. Before
26 an authority or this state may institute a cost recovery action, it
27 must provide the other with 120 days' notice. This state or an

1 authority that recovers costs under this subsection shall apply
2 those recovered costs to the following, in the following order of
3 priority:

4 (a) The reasonable attorney fees and costs incurred by this
5 state or an authority in obtaining the cost recovery.

6 (b) One of the following:

7 (i) If an authority undertakes the cost recovery action, the
8 authority shall deposit the remaining recovered funds into the
9 local site remediation fund created pursuant to section 8, if such
10 a fund has been established by the authority. If a local site
11 remediation fund has not been established, the authority shall
12 disburse the remaining recovered funds to the local taxing
13 jurisdictions in the proportion that the local taxing
14 jurisdictions' taxes were captured.

15 (ii) If this state undertakes a cost recovery action, this
16 state shall deposit the remaining recovered funds into the
17 revitalization revolving loan fund established under section 20108a
18 of the natural resources and environmental protection act, 1994 PA
19 451, MCL 324.20108a.

20 (iii) If this state and an authority each undertake a cost
21 recovery action, undertake a cost recovery action jointly, or 1 on
22 behalf of the other, the amount of any remaining recovered funds
23 shall be deposited pursuant to subparagraphs (i) and (ii) in the
24 proportion that the tax increment revenues being recovered
25 represent local taxes and taxes levied for school operating
26 purposes, respectively.

27 (9) Approval of the brownfield plan or an amendment to a

1 brownfield plan shall be in accordance with the notice and approval
2 provisions of this section and section 14.

3 (10) Before approving a brownfield plan for an eligible
4 property, the governing body shall hold a public hearing on the
5 brownfield plan. Notice of the time and place of the hearing shall
6 be given by publication twice in a newspaper of general circulation
7 designated by the municipality, the first of which shall be not
8 less than 20 or more than 40 days before the date set for the
9 hearing.

10 (11) Notice of the time and place of the hearing on a
11 brownfield plan shall contain all of the following:

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

15 (b) A statement that maps, plats, and a description of the
16 brownfield plan are available for public inspection at a place
17 designated in the notice and that all aspects of the brownfield
18 plan are open for discussion at the public hearing required by this
19 section.

20 (c) Any other information that the governing body considers
21 appropriate.

22 (12) At the time set for the hearing on the brownfield plan
23 required under subsection (10), the governing body shall provide an
24 opportunity for interested persons to be heard and shall receive
25 and consider communications in writing with reference to the
26 brownfield plan. The governing body shall make and preserve a
27 record of the public hearing, including all data presented at the

1 hearing.

2 (13) Not less than 20 days before the hearing on the
3 brownfield plan, the governing body shall provide notice of the
4 hearing to the taxing jurisdictions that levy taxes subject to
5 capture under this act. The authority shall fully inform the taxing
6 jurisdictions about the fiscal and economic implications of the
7 proposed brownfield plan. At that hearing, an official from a
8 taxing jurisdiction with millage that would be subject to capture
9 under this act has the right to be heard in regard to the adoption
10 of the brownfield plan.

11 (14) The authority shall not enter into agreements with the
12 taxing jurisdictions and the governing body of the municipality to
13 share a portion of the captured taxable value of an eligible
14 property. Upon adoption of the plan, the collection and
15 transmission of the amount of tax increment revenues as specified
16 in this act shall be binding on all taxing units levying ad valorem
17 property taxes or specific taxes against property located in the
18 zone.

19 (15) Except as provided by subsection (18), if a brownfield
20 plan includes the capture of taxes levied for school operating
21 purposes or the use of tax increment revenues related to a
22 brownfield plan for the cost of eligible activities attributable to
23 more than 1 eligible property that is adjacent and contiguous to
24 all other eligible properties covered by the development agreement,
25 whether or not the captured taxes are levied for school operating
26 purposes, approval of a work plan by the Michigan economic growth
27 authority before January 1, 2008 to use school operating taxes and

1 a development agreement between the municipality and an owner or
2 developer of eligible property are required if the revenues will be
3 used for infrastructure improvements that directly benefit eligible
4 property, demolition of structures that is not response activity
5 under part 201 of the natural resources and environmental
6 protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or
7 asbestos abatement, or site preparation that is not response
8 activity under section 20101 of the natural resources and
9 environmental protection act, 1994 PA 451, MCL 324.20101. The
10 eligible activities to be conducted described in this subsection
11 shall be consistent with the work plan submitted by the authority
12 to the Michigan economic growth authority. The department's
13 approval is not required for the capture of taxes levied for school
14 operating purposes for eligible activities described in this
15 subsection.

16 (16) The limitations of section 15(1) upon use of tax
17 increment revenues by an authority shall not apply to the following
18 costs and expenses:

19 (a) In each fiscal year of the authority, \$75,000.00 for the
20 following purposes for tax increment revenues attributable to local
21 taxes:

22 (i) Reasonable and actual administrative and operating expenses
23 of the authority.

24 (ii) Baseline environmental assessments, due care activities,
25 and additional response activities related directly to work
26 conducted on prospective eligible properties prior to approval of
27 the brownfield plan.

1 (b) Reasonable costs of preparing a work plan or remedial
2 action plan or the cost of the review of a work plan for which tax
3 increment revenues may be used under section 13(3).

4 (17) A brownfield authority may reimburse advances, with or
5 without interest, made by a municipality under section 7(3), a land
6 bank fast track authority, or any other person or entity for costs
7 of eligible activities with any source of revenue available for use
8 of the brownfield authority under this act and may enter into
9 agreements related to those reimbursements. A reimbursement
10 agreement for these purposes and the obligations under that
11 reimbursement agreement shall not be subject to section 12 or the
12 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
13 141.2821.

14 (18) If a brownfield plan includes the capture of taxes levied
15 for school operating purposes, approval of a work plan by the
16 Michigan economic growth authority in the manner required under
17 section 15(14) to (16) is required in order to use tax increment
18 revenues attributable to taxes levied for school operating purposes
19 for purposes of eligible activities described in section 2(m)(iv)(E)
20 for 1 or more parcels of eligible property. The work plan to be
21 submitted to the Michigan economic growth authority under this
22 subsection shall be in a form prescribed by the Michigan economic
23 growth authority. The eligible activities to be conducted and
24 described in this subsection shall be consistent with the work plan
25 submitted by the authority to the Michigan economic growth
26 authority. The department's approval is not required for the
27 capture of taxes levied for school operating purposes for eligible

1 activities described in this section.

2 (19) IF A BROWNFIELD PLAN IS ADOPTED OR AMENDED AFTER JANUARY
3 1, 2006, THE BROWNFIELD PLAN SHALL CONTAIN A PROVISION REQUIRING
4 THE PAYMENT OF A PENALTY IF THE OWNER OR LESSEE OF ELIGIBLE
5 PROPERTY IS FOUND GUILTY OF A CRIMINAL VIOLATION OR FOUND
6 RESPONSIBLE FOR A CIVIL VIOLATION UNDER 29 USC 1131 OR 1132. THE
7 PENALTY IS EQUAL TO THE AMOUNT THAT PERSON HAS RECEIVED UNDER THIS
8 ACT AS A CREDIT OR A PAYMENT OR REIMBURSEMENT FOR AN ELIGIBLE
9 ACTIVITY UNDER THIS ACT.