Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5539 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 5540 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 5541 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 5542 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Representative Steve Bieda (H.B. 5539)
Representative Lorence Wenke (H.B. 5540)
Representative Robert Dean (H.B. 5541)
Representative Robert Jones (H.B. 5542)
House Committee: Tax Policy
Senate Committee: Commerce and Tourism

CONTENT

The bills would amend several statutes to provide for State education tax revenue to be paid to various tax increment authorities, for the repayment of particular advances or obligations, if the amount of tax increment revenue they lost as a result of certain personal property tax exemptions enacted in 2007 would reduce the allowable school tax capture the authorities received in a fiscal year.

House Bill 5539 (S-1) would amend the Brownfield Redevelopment Financing Act and allow the retained amount to be used to repay an advance made within one year after the bill's effective date; to repay an obligation issued or incurred within one year after the bill's effective date; to pay or reimburse a developer or owner of eligible property, or a municipality that created the authority, for eligible activities pursuant to a development reimbursement agreement entered into within one year after the bill's effective date; and to pay for eligible activities identified in a brownfield plan, if the plan contained certain information and the work plan for the capture of school taxes were approved within one year after the bill's effective date. House Bill 5540 (S-1) would amend the Local Development Financing Act and allow the retained amount to be used to repay an eligible advance; to repay an eligible obligation; to repay another protected obligation; or to pay an advance or an obligation identified in a development plan if it contained certain information and the plan for the capture of school taxes were approved within one year after the bill's effective date. House Bill 5541 (S-1) would amend the Tax Increment Finance Authority Act and allow the retained amount to be used to repay an eligible advance, an eligible obligation, or another protected obligation. House Bill 5542 (S-1) would amend the downtown development authority (DDA) Act and allow the retained amount to be used to repay an eligible advance, an eligible obligation, or any other protected obligation. (All of those Acts authorize the various authorities created under them to capture tax increment revenue from property within a designated district.)

Under each bill, 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 would reduce the allowable school tax capture received in a fiscal year by a tax increment authority, the authority, with the approval of the Department of Treasury, could request the local tax collecting treasurer to retain and pay to the authority taxes levied under the State Education Tax Act to be used as described above. (Public Acts 37, 38, 39, and 40 amended the Revised School Code, the State Education Tax Act, the plant rehabilitation and industrial development Act, and the General Property Tax Act, respectively, to exempt commercial and industrial personal property from the State education tax and school operating mills.)

By June 15, 2008, and by June 1 of each subsequent year, an authority eligible to have taxes levied under the State Education Tax Act retained and paid to the authority under the applicable bill would have to apply for approval with the Department of Treasury. By August 15 of each year, the Department would have to approve, modify, or deny the application. If the application contained the required information and appeared to be in substantial compliance with the bill, the Department would have to approve the application. If the application were denied, the Department would have to provide an opportunity for the authority to discuss the denial within 21 days, and would have to sustain or modify its decision within 30 days after receiving information from the authority. By September 15 of each year, an authority would have to provide a copy of an approved application to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under the bill.

Each year, the Legislature would have to appropriate and distribute an amount sufficient to pay each authority the following:

-- If the amount to be retained and paid were less than the amount calculated under the applicable bill, the difference between those amounts.
-- If the application were denied by the Department, an amount verified by the Department equal to the amount calculated under the bill.

The aggregate amount under each bill would be the sum of the first two amounts determined as described below, minus the third amount determined as described below:

-- The amount by which the tax increment revenue the authority would have received and retained for the fiscal year, excluding taxes exempt under the General Property Tax Act for real and personal property located in a renaissance zone, if the personal property tax exemptions enacted in 2007 were not in effect, exceeded the tax increment revenue the authority actually received for the fiscal year.
-- A shortfall required to be reported that had not previously increased a distribution.
-- An excess amount required to be reported that had not previously decreased a distribution.

Proposed MCL 125.2665a (H.B. 5539) Legislative Analyst: Patrick Affholter
Proposed MCL 125.2161b (H.B. 5540)
Proposed MCL 125.1812b (H.B. 5541)
Proposed MCL 125.1663c (H.B. 5542)

FISCAL IMPACT

The bills would reduce State School Aid Fund revenue and increase State expenditures by an unknown amount. The bills also would increase local unit revenue to the affected authorities by an unknown amount. The amount of any fiscal impact would depend upon the specific characteristics of the local units affected, the amount of revenue appropriated to authorities, and the amount of State education tax allowed to be retained by authorities. Expenditures would be increased by the amount of any payments made to authorities.

It is unknown whether the appropriations would be made from the General Fund or the School Aid Fund. The Michigan business tax revenue earmarked to the School Aid Fund includes the amounts affected by the bills, suggesting that any such appropriations could be made from the School Aid Fund. School Aid Fund revenue would decrease to the extent that State education tax revenue was approved to be retained and paid to an authority. The bills would affect only those local units with authorities that were authorized to capture school operating mills or State education tax, and the State education tax received from those units.

Date Completed: 5-27-08 Fiscal Analyst: David Zin