

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5542**

A bill to amend 1975 PA 197, entitled

"An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,"

(MCL 125.1651 to 125.1681) by adding section 13c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 13C. (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**

House Bill 5542 as amended May 27, 2008

1 380.1211, SECTION 3 OF THE STATE EDUCATION TAX ACT, 1993 PA 331,
2 MCL 211.903, SECTION 14(4) OF 1974 PA 198, MCL 207.564, AND SECTION
3 9K OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9K, WILL
4 REDUCE THE ALLOWABLE SCHOOL TAX CAPTURE RECEIVED IN A FISCAL YEAR,
5 THEN, NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE
6 AUTHORITY, WITH APPROVAL OF THE DEPARTMENT OF TREASURY UNDER
7 SUBSECTION (3), MAY REQUEST THE LOCAL TAX COLLECTING TREASURER TO
8 RETAIN AND PAY TO THE AUTHORITY TAXES LEVIED UNDER THE STATE
9 EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, TO BE USED
10 FOR THE FOLLOWING:

11 (A) TO REPAY AN ELIGIBLE ADVANCE.

12 (B) TO REPAY AN ELIGIBLE OBLIGATION.

13 (C) TO REPAY AN OTHER PROTECTED OBLIGATION.

14 (2) NOT LATER THAN JUNE <<15 OF 2008 AND NOT LATER THAN JUNE 1 OF
EACH SUBSEQUENT>> YEAR, AN AUTHORITY ELIGIBLE

15 UNDER SUBSECTION (1) TO HAVE TAXES LEVIED UNDER THE STATE EDUCATION
16 TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, RETAINED AND PAID TO
17 THE AUTHORITY UNDER THIS SECTION, SHALL APPLY FOR APPROVAL WITH THE
18 DEPARTMENT OF TREASURY. THE APPLICATION FOR APPROVAL SHALL INCLUDE
19 THE FOLLOWING INFORMATION:

20 (A) THE PROPERTY TAX MILLAGE RATES EXPECTED TO BE LEVIED BY
21 LOCAL SCHOOL DISTRICTS WITHIN THE JURISDICTIONAL AREA OF THE
22 AUTHORITY FOR SCHOOL OPERATING PURPOSES FOR THAT FISCAL YEAR.

23 (B) THE TAX INCREMENT REVENUES ESTIMATED TO BE RECEIVED BY THE
24 AUTHORITY FOR THAT FISCAL YEAR BASED UPON ACTUAL PROPERTY TAX
25 LEVIES OF ALL TAXING JURISDICTIONS WITHIN THE JURISDICTIONAL AREA
26 OF THE AUTHORITY.

27 (C) THE TAX INCREMENT REVENUES THE AUTHORITY ESTIMATES IT

1 WOULD HAVE RECEIVED FOR THAT FISCAL YEAR IF THE PERSONAL PROPERTY
2 TAX EXEMPTIONS DESCRIBED IN SUBSECTION (1) WERE NOT IN EFFECT.

3 (D) A LIST OF ELIGIBLE OBLIGATIONS, ELIGIBLE ADVANCES, AND
4 OTHER PROTECTED OBLIGATIONS, THE PAYMENTS DUE ON EACH OF THOSE IN
5 THAT FISCAL YEAR, AND THE TOTAL AMOUNT OF ALL THE PAYMENTS DUE ON
6 ALL OF THOSE IN THAT FISCAL YEAR.

7 (E) THE AMOUNT OF MONEY, OTHER THAN TAX INCREMENT REVENUES,
8 ESTIMATED TO BE RECEIVED IN THAT FISCAL YEAR BY THE AUTHORITY THAT
9 IS PRIMARILY PLEDGED TO, AND TO BE USED FOR, THE PAYMENT OF AN
10 ELIGIBLE OBLIGATION, THE REPAYMENT OF AN ELIGIBLE ADVANCE, OR THE
11 PAYMENT OF AN OTHER PROTECTED OBLIGATION. THAT AMOUNT SHALL NOT
12 INCLUDE EXCESS TAX INCREMENT REVENUES OF THE AUTHORITY THAT ARE
13 PERMITTED BY LAW TO BE RETAINED BY THE AUTHORITY FOR PURPOSES THAT
14 FURTHER THE DEVELOPMENT PROGRAM. HOWEVER, THAT AMOUNT SHALL INCLUDE
15 MONEY TO BE OBTAINED FROM SOURCES AUTHORIZED BY LAW, WHICH LAW IS
16 ENACTED ON OR AFTER DECEMBER 1, 1993, FOR USE BY THE MUNICIPALITY
17 OR AUTHORITY TO FINANCE A DEVELOPMENT PLAN.

18 (F) THE AMOUNT OF A DISTRIBUTION RECEIVED PURSUANT TO THIS ACT
19 FOR A FISCAL YEAR IN EXCESS OF OR LESS THAN THE DISTRIBUTION THAT
20 WOULD HAVE BEEN REQUIRED IF CALCULATED UPON ACTUAL TAX INCREMENT
21 REVENUES RECEIVED FOR THAT FISCAL YEAR.

22 (3) NOT LATER THAN AUGUST 15 OF EACH YEAR, BASED ON THE
23 CALCULATIONS UNDER SUBSECTION (5), THE DEPARTMENT OF TREASURY SHALL
24 APPROVE, MODIFY, OR DENY THE APPLICATION FOR APPROVAL TO HAVE TAXES
25 LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901
26 TO 211.906, RETAINED AND PAID TO THE AUTHORITY UNDER THIS SECTION.
27 IF THE APPLICATION FOR APPROVAL CONTAINS THE INFORMATION REQUIRED

1 UNDER SUBSECTION (2) (A) THROUGH (F) AND APPEARS TO BE IN
2 SUBSTANTIAL COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, THEN
3 THE DEPARTMENT OF TREASURY SHALL APPROVE THE APPLICATION. IF THE
4 APPLICATION IS DENIED BY THE DEPARTMENT OF TREASURY, THEN THE
5 DEPARTMENT OF TREASURY SHALL PROVIDE THE OPPORTUNITY FOR A
6 REPRESENTATIVE OF THE AUTHORITY TO DISCUSS THE DENIAL WITHIN 21
7 DAYS AFTER THE DENIAL OCCURS AND SHALL SUSTAIN OR MODIFY ITS
8 DECISION WITHIN 30 DAYS AFTER RECEIVING INFORMATION FROM THE
9 AUTHORITY. IF THE APPLICATION FOR APPROVAL IS APPROVED OR MODIFIED
10 BY THE DEPARTMENT OF TREASURY, THE LOCAL TAX COLLECTING TREASURER
11 SHALL RETAIN AND PAY TO THE AUTHORITY THE AMOUNT DESCRIBED IN
12 SUBSECTION (5) AS APPROVED BY THE DEPARTMENT. IF THE DEPARTMENT OF
13 TREASURY DENIES THE AUTHORITY'S APPLICATION FOR APPROVAL, THE LOCAL
14 TAX COLLECTING TREASURER SHALL NOT RETAIN OR PAY TO THE AUTHORITY
15 THE TAXES LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331,
16 MCL 211.901 TO 211.906. AN APPROVAL BY THE DEPARTMENT DOES NOT
17 PROHIBIT A SUBSEQUENT AUDIT OF TAXES RETAINED IN ACCORDANCE WITH
18 THE PROCEDURES CURRENTLY AUTHORIZED BY LAW.

19 (4) EACH YEAR THE LEGISLATURE SHALL APPROPRIATE AND DISTRIBUTE
20 AN AMOUNT SUFFICIENT TO PAY EACH AUTHORITY THE FOLLOWING:

21 (A) IF THE AMOUNT TO BE RETAINED AND PAID UNDER SUBSECTION (3)
22 IS LESS THAN THE AMOUNT CALCULATED UNDER SUBSECTION (5), THE
23 DIFFERENCE BETWEEN THOSE AMOUNTS.

24 (B) IF THE APPLICATION FOR APPROVAL IS DENIED BY THE
25 DEPARTMENT OF TREASURY, AN AMOUNT VERIFIED BY THE DEPARTMENT EQUAL
26 TO THE AMOUNT CALCULATED UNDER SUBSECTION (5).

27 (5) SUBJECT TO SUBSECTION (6), THE AGGREGATE AMOUNT UNDER THIS

1 SECTION SHALL BE THE SUM OF THE AMOUNTS DETERMINED UNDER
2 SUBDIVISIONS (A) AND (B) MINUS THE AMOUNT DETERMINED UNDER
3 SUBDIVISION (C), AS FOLLOWS:

4 (A) THE AMOUNT BY WHICH THE TAX INCREMENT REVENUES THE
5 AUTHORITY WOULD HAVE RECEIVED AND RETAINED FOR THE FISCAL YEAR,
6 EXCLUDING TAXES EXEMPT UNDER SECTION 7FF OF THE GENERAL PROPERTY
7 TAX ACT, 1893 PA 206, MCL 211.7FF, IF THE PERSONAL PROPERTY TAX
8 EXEMPTIONS DESCRIBED IN SUBSECTION (1) WERE NOT IN EFFECT, EXCEED
9 THE TAX INCREMENT REVENUES THE AUTHORITY ACTUALLY RECEIVED FOR THE
10 FISCAL YEAR.

11 (B) A SHORTFALL REQUIRED TO BE REPORTED UNDER SUBSECTION
12 (2) (F) THAT HAD NOT PREVIOUSLY INCREASED A DISTRIBUTION.

13 (C) AN EXCESS AMOUNT REQUIRED TO BE REPORTED UNDER SUBSECTION
14 (2) (F) THAT HAD NOT PREVIOUSLY DECREASED A DISTRIBUTION.

15 (6) A DISTRIBUTION OR TAXES RETAINED UNDER THIS SECTION
16 REPLACING TAX INCREMENT REVENUES PLEDGED BY AN AUTHORITY OR A
17 MUNICIPALITY ARE SUBJECT TO ANY LIEN OF THE PLEDGE DESCRIBED IN
18 SUBSECTION (1), WHETHER OR NOT THERE HAS BEEN PHYSICAL DELIVERY OF
19 THE DISTRIBUTION.

20 (7) OBLIGATIONS FOR WHICH DISTRIBUTIONS ARE MADE UNDER THIS
21 SECTION ARE NOT A DEBT OR LIABILITY OF THIS STATE; DO NOT CREATE OR
22 CONSTITUTE AN INDEBTEDNESS, LIABILITY, OR OBLIGATION OF THIS STATE;
23 AND ARE NOT AND DO NOT CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT
24 OF THIS STATE.

25 (8) NOT LATER THAN SEPTEMBER 15 OF EACH YEAR, THE AUTHORITY
26 SHALL PROVIDE A COPY OF THE APPLICATION FOR APPROVAL APPROVED BY
27 THE DEPARTMENT OF TREASURY TO THE LOCAL TAX COLLECTING TREASURER

1 AND PROVIDE THE AMOUNT OF THE TAXES RETAINED AND PAID TO THE
2 AUTHORITY UNDER SUBSECTION (5) .

3 (9) CALCULATIONS OF AMOUNTS RETAINED AND PAID AND
4 APPROPRIATIONS TO BE DISTRIBUTED UNDER THIS SECTION SHALL BE MADE
5 ON THE BASIS OF EACH DEVELOPMENT AREA OF THE AUTHORITY.

6 (10) THE STATE TAX COMMISSION MAY PROVIDE THAT THE
7 REIMBURSEMENT CALCULATIONS UNDER THIS SECTION AND THE CALCULATION
8 OF ALLOWABLE CAPTURE OF SCHOOL TAXES SHALL BE MADE FOR EACH
9 CALENDAR YEAR'S TAX INCREMENT REVENUES USING A 12-MONTH DEBT
10 PAYMENT PERIOD USED BY THE AUTHORITY AND APPROVED BY THE STATE TAX
11 COMMISSION.

12 (11) IT IS THE INTENT OF THE LEGISLATURE THAT, TO THE EXTENT
13 THAT THE TOTAL AMOUNT OF TAXES LEVIED UNDER THE STATE EDUCATION TAX
14 ACT, 1993 PA 331, MCL 211.901 TO 211.906, THAT ARE ALLOWED TO BE
15 RETAINED UNDER THIS SECTION AND SECTION 11B OF THE LOCAL
16 DEVELOPMENT FINANCING ACT, 1986 PA 281, MCL 125.2161B, SECTION 15A
17 OF THE BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL
18 125.2665A, AND SECTION 12B OF THE TAX INCREMENT FINANCING ACT, 1980
19 PA 450, MCL 125.1812B, EXCEEDS THE DIFFERENCE OF THE TOTAL SCHOOL
20 AID FUND REVENUE FOR THE TAX YEAR MINUS THE ESTIMATED AMOUNT OF
21 REVENUE THE SCHOOL AID FUND WOULD HAVE RECEIVED FOR THE TAX YEAR
22 HAD THE TAX EXEMPTIONS DESCRIBED IN SUBSECTION (1) AND THE EARMARK
23 CREATED BY SECTION 515 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA
24 36, MCL 208.1515, NOT TAKEN EFFECT, THE GENERAL FUND SHALL
25 REIMBURSE THE SCHOOL AID FUND THE DIFFERENCE.