

SENATE BILL No. 1006

December 3, 2009, Introduced by Senators NOFS, GARCIA, PATTERSON, CROPSEY, BISHOP and HARDIMAN and referred to the Committee on Commerce and Tourism.

A bill to amend 1980 PA 450, entitled
"The tax increment finance authority act,"
by amending section 12b (MCL 125.1812b), as added by 2008 PA 156.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12b. (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 within the
2 municipality under the state education tax act, 1993 PA 331, MCL
3 211.901 to 211.906, to be used 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 (2) Not later than June 15, ~~of~~ **2008, NOT LATER THAN AUGUST 31,**
8 **2009**, and not later than June 1 of each subsequent year, an
9 authority eligible under subsection (1) to have taxes levied under
10 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
11 retained and paid to the authority under this section, shall apply
12 for approval with the department of treasury. The application for
13 approval shall include the following information:

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

17 (b) The tax increment revenues estimated to be received by the
18 authority for that fiscal year based upon actual property tax
19 levies of all taxing jurisdictions within the jurisdictional area
20 of the authority.

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

24 (d) A list of eligible obligations, eligible advances, and
25 other protected obligations, the payments due on each of those in
26 that fiscal year, and the total amount of all the payments due on
27 all of those in that fiscal year.

1 (e) The amount of money, other than tax increment revenues,
2 estimated to be received in that fiscal year by the authority that
3 is primarily pledged to, and to be used for, the payment of an
4 eligible obligation, the repayment of an eligible advance, or the
5 payment of an other protected obligation. That amount shall not
6 include excess tax increment revenues of the authority that are
7 permitted by law to be retained by the authority for purposes that
8 further the development program. However, that amount shall include
9 money to be obtained from sources authorized by law, which law is
10 enacted on or after December 1, 1993, for use by the municipality
11 or authority to finance a development plan.

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

16 (3) Not later than August 15, 2008, **NOT LATER THAN DECEMBER**
17 **31, 2009, AND NOT LATER THAN AUGUST 15** of each **SUBSEQUENT** year,
18 based on the calculations under subsection (5), the department of
19 treasury shall approve, modify, or deny the application for
20 approval to have taxes levied under the state education tax act,
21 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the
22 authority under this section. If the application for approval
23 contains the information required under subsection (2)(a) through
24 (f) and appears to be in substantial compliance with the provisions
25 of this section, then the department of treasury shall approve the
26 application. If the application is denied by the department of
27 treasury, then the department of treasury shall provide the

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

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

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

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

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

27 (a) The amount by which the tax increment revenues the

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

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

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

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

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

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

26 (9) Calculations of amounts retained and paid and
27 appropriations to be distributed under this section shall be made

1 on the basis of each development area of the authority.

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

8 (11) It is the intent of the legislature that, to the extent
9 that the total amount of taxes levied under the state education tax
10 act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be
11 retained under this section and section 11b of the local
12 development financing act, 1986 PA 281, MCL 125.2161b, section 15a
13 of the brownfield redevelopment financing act, 1996 PA 381, MCL
14 125.2665a, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds
15 the difference of the total school aid fund revenue for the tax
16 year minus the estimated amount of revenue the school aid fund
17 would have received for the tax year had the tax exemptions
18 described in subsection (1) and the earmark created by section 515
19 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not
20 taken effect, the general fund shall reimburse the school aid fund
21 the difference.