

# SENATE BILL No. 533

September 24, 2013, Introduced by Senator KAHN and referred to the Committee on Economic Development.

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  
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 advance made not later than 1 year after the  
5 effective date of the amendatory act that added this section.

6 (b) To repay an obligation issued or incurred not later than 1  
7 year after the effective date of the amendatory act that added this  
8 section.

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

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

21 (i) A detailed description of the project.

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

23 (iii) The specific location of the project.

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

25 (2) Not later than June 15 of 2008 and not later than June 1  
26 of each subsequent year, **OR FOR 2013 ONLY, NOT LATER THAN 30 DAYS**  
27 **AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT AMENDED THIS**

1 **SENTENCE**, an authority eligible under subsection (1) to have taxes  
2 levied under the state education tax act, 1993 PA 331, MCL 211.901  
3 to 211.906, retained and paid to the authority under this section,  
4 shall apply for approval with the department of treasury. The  
5 application for approval shall include the following information:

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

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

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

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

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

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

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

13 (3) Not later than August 15, based on the calculations under  
14 subsection (5), the department of treasury shall approve, modify,  
15 or deny the application for approval to have taxes levied under the  
16 state education tax act, 1993 PA 331, MCL 211.901 to 211.906,  
17 retained and paid to the authority under this section. If the  
18 application for approval contains the information required under  
19 subsection (2)(a) through (f) and appears to be in substantial  
20 compliance with the provisions of this section, then the department  
21 of treasury shall approve the application. If the application is  
22 denied by the department of treasury, then the department of  
23 treasury shall provide the opportunity for a representative of the  
24 authority to discuss the denial within 21 days after the denial  
25 occurs and shall sustain or modify its decision within 30 days  
26 after receiving information from the authority. If the application  
27 for approval is approved or modified by the department of treasury,

1 the local tax collecting treasurer shall retain and pay to the  
2 authority the amount described in subsection (5) as approved by the  
3 department of treasury. If the department of treasury denies the  
4 authority's application for approval, the local tax collecting  
5 treasurer shall not retain or pay to the authority the taxes levied  
6 under the state education tax act, 1993 PA 331, MCL 211.901 to  
7 211.906. An approval by the department does not prohibit a  
8 subsequent audit of taxes retained in accordance with the  
9 procedures currently authorized by law.

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

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

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

18 (5) Subject to subsection (6), the aggregate amount under this  
19 section shall be the sum of the amounts determined under  
20 subdivisions (a) and (b) minus the amount determined under  
21 subdivision (c), as follows:

22 (a) The amount by which the tax increment revenues the  
23 authority would have received and retained for the fiscal year,  
24 excluding taxes exempt under section 7ff of the general property  
25 tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax  
26 exemptions described in subsection (1) were not in effect, exceed  
27 the tax increment revenues the authority actually received for the

1 fiscal year.

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

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

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

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

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

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

24 (10) The state tax commission may provide that the  
25 calculations under this section and the calculation of allowable  
26 capture of school taxes shall be made for each calendar year's tax  
27 increment revenues using a 12-month debt payment period used by the

1 authority and approved by the state tax commission.

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

16 (12) As used in this section:

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

19 (b) "Obligation" means that term as defined in section 1 of  
20 1975 PA 197, MCL 125.1651.