

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4400

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending sections 2, 3, 4, 5, 7, 8, 13, 15, 16, and 19 (MCL 125.2652, 125.2653, 125.2654, 125.2655, 125.2657, 125.2658, 125.2663, 125.2665, 125.2666, and 125.2669).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Additional response activities" means response activi-
3 ties ~~proposed~~ IDENTIFIED as part of a brownfield plan that are
4 in addition to baseline environmental assessment activities and
5 due care 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
9 defined in section 20101 ~~of part 201 (environmental~~

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400 as amended April 5, 2000

2

1 ~~remediation)~~ of the natural resources and environmental
2 protection act, ~~Act No. 451 of the Public Acts of 1994, being~~
3 ~~section 324.20101 of the Michigan Compiled Laws~~ 1994 PA 451,
4 MCL 324.20101.

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

9 (E) "BLIGHTED" MEANS PROPERTY THAT MEETS ANY OF THE FOLLOW-
10 ING CRITERIA:

11 (i) HAS BEEN DECLARED A PUBLIC NUISANCE IN ACCORDANCE WITH A
12 LOCAL HOUSING, BUILDING, PLUMBING, FIRE, OR OTHER RELATED CODE OR
13 ORDINANCE.

14 (ii) IS AN ATTRACTIVE NUISANCE TO CHILDREN BECAUSE OF PHYSI-
15 CAL CONDITION, USE, OR OCCUPANCY.

16 (iii) IS A FIRE HAZARD OR IS OTHERWISE DANGEROUS TO THE
17 SAFETY OF PERSONS OR PROPERTY.

18 (iv) HAS HAD THE UTILITIES, PLUMBING, HEATING, OR SEWERAGE
19 PERMANENTLY DISCONNECTED, DESTROYED, REMOVED, OR RENDERED INEF-
20 FECTIVE SO THAT THE PROPERTY IS UNFIT FOR ITS INTENDED USE.

21 (v) IS TAX REVERTED PROPERTY OWNED BY A QUALIFIED LOCAL GOV-
22 ERNMENTAL UNIT, BY A COUNTY, OR BY THIS STATE.

23 (F) ~~(e)~~ "Board" means the governing body of an authority.

24 (G) ~~(f)~~ "Brownfield plan" means a plan that meets the
25 requirements of section 13 and is adopted under section 14.

26 (H) ~~(g)~~ "Captured taxable value" means the amount in 1
27 year by which the current taxable value of an eligible property
subject to a brownfield plan, including the taxable value or

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400 as amended April 5, 2000

3

1 assessed value, as appropriate, of the property for which
2 specific taxes are paid in lieu of property taxes, exceeds the
3 initial taxable value of that eligible property. The state tax
4 commission shall prescribe the method for calculating captured
5 taxable value.

6 (I) ~~(h)~~ "Chief executive officer" means the mayor of a
7 city, the village manager of a village, the township supervisor
8 of a township, or the county executive of a county or, if the
9 county does not have an elected county executive, the chairperson
10 of the county board of commissioners.

11 (J) ~~(i)~~ "Department" means the department of environmental
12 quality.

13 (K) ~~(j)~~ "Due care activities" means those response activi-
14 ties identified as part of a brownfield plan that are necessary
15 to allow the owner or operator of an eligible property in the
16 plan to comply with the requirements of section 20107a ~~of part~~
17 ~~201 of Act No. 451 of the Public Acts of 1994, being~~
18 ~~section 324.20107a of the Michigan Compiled Laws~~ OF THE NATURAL
19 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
20 MCL 324.20107A.

21 ~~(l)~~ ~~(k)~~ "Eligible activities" OR "ELIGIBLE ACTIVITY" DOES NOT
INCLUDE ACTIVITIES RELATED TO MULTISOURCE COMMERCIAL HAZARDOUS WASTE
DISPOSAL WELLS AS THAT TERM IS DEFINED IN SECTION 62506A OF THE
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994, PA 451,
MCL 324.62506A, BUT means

22 1 or more of the following:

23 (i) Baseline environmental assessment activities.

24 (ii) Due care activities.

25 (iii) Additional response activities.

26 (iv) FOR ELIGIBLE ACTIVITIES ON ELIGIBLE PROPERTY THAT WAS
27 USED OR IS CURRENTLY USED FOR COMMERCIAL, INDUSTRIAL, OR

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400 as amended April 5, 2000

4

1 RESIDENTIAL PURPOSES THAT IS IN A QUALIFIED LOCAL GOVERNMENTAL
2 UNIT AND IS A FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED, AND
3 EXCEPT FOR PURPOSES OF SECTION 38D OF THE SINGLE BUSINESS TAX
4 ACT, 1975 PA 228, MCL 208.38D, THE FOLLOWING ADDITIONAL
5 ACTIVITIES:

6 (A) INFRASTRUCTURE IMPROVEMENTS THAT DIRECTLY BENEFIT ELIGI-
7 BLE PROPERTY.

8 (B) DEMOLITION OF STRUCTURES THAT IS NOT RESPONSE ACTIVITY
9 UNDER SECTION 201 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PRO-
10 TECTION ACT, 1994 PA 451, MCL 324.20101.

11 (C) LEAD OR ASBESTOS ABATEMENT.

12 (D) SITE PREPARATION THAT IS NOT RESPONSE ACTIVITY UNDER
13 SECTION 201 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
14 ACT, 1994 PA 451. MCL 324.20101.

(v) RELOCATION OF PUBLIC BUILDINGS OR OPERATIONS FOR ECONOMIC
DEVELOPMENT PURPOSES WITH PRIOR APPROVAL OF THE MICHIGAN ECONOMIC
DEVELOPMENT AUTHORITY.

15 (M) ~~(t)~~ "Eligible property" means ~~a facility as that term~~
16 ~~is defined in section 20101 of part 201 of Act No. 451 of the~~
17 ~~Public Acts of 1994, being section 324.20101 of the Michigan~~
18 ~~Compiled Laws, and~~ PROPERTY FOR WHICH ELIGIBLE ACTIVITIES ARE
19 IDENTIFIED UNDER A BROWNFIELD PLAN THAT WAS USED OR IS CURRENTLY
20 USED FOR COMMERCIAL, INDUSTRIAL, OR RESIDENTIAL PURPOSES THAT IS
21 EITHER IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND IS A FACILITY,
22 FUNCTIONALLY OBSOLETE, OR BLIGHTED OR IS NOT IN A QUALIFIED LOCAL
23 GOVERNMENTAL UNIT AND IS A FACILITY, AND INCLUDES PARCELS THAT
24 ARE adjacent or contiguous ~~parcels~~ TO THAT PROPERTY if the
25 development of the adjacent and contiguous parcels is estimated
26 to increase the captured taxable value of ~~the facility for which~~
27 ~~eligible activities are proposed under a brownfield plan~~ THAT

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400 as amended April 5 and April 6, 2000

5

1 PROPERTY. Eligible property ~~shall include~~ INCLUDES, to the
2 extent included in THE brownfield plan, personal property located
3 on the ~~facility~~ PROPERTY. ELIGIBLE PROPERTY DOES NOT INCLUDE
4 QUALIFIED AGRICULTURAL PROPERTY EXEMPT UNDER SECTION 7EE OF THE
5 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.7EE, FROM THE TAX
6 LEVIED BY A LOCAL SCHOOL DISTRICT FOR SCHOOL OPERATING PURPOSES
7 TO THE EXTENT PROVIDED UNDER SECTION 1211 OF THE REVISED SCHOOL
8 CODE, 1976 PA 451, MCL 380.1211.

9 (N) "FACILITY" MEANS THAT TERM AS DEFINED IN SECTION 20101
10 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994
11 PA 451, MCL 324.20101.

12 (O) ~~(m)~~ "Fiscal year" means the fiscal year of the
13 authority.

14 (P) "FUNCTIONALLY OBSOLETE" MEANS THAT THE PROPERTY IS
15 UNABLE TO BE USED TO ADEQUATELY PERFORM THE FUNCTION FOR WHICH IT
16 WAS INTENDED DUE TO A SUBSTANTIAL LOSS IN VALUE RESULTING FROM
17 FACTORS SUCH AS OVERCAPACITY, CHANGES IN TECHNOLOGY, DEFICIENCIES
18 OR SUPERADEQUACIES IN DESIGN, OR OTHER SIMILAR FACTORS THAT
19 AFFECT THE PROPERTY ITSELF OR THE PROPERTY'S RELATIONSHIP WITH
20 OTHER SURROUNDING PROPERTY.

21 (Q) ~~(n)~~ "Governing body" means the elected body having
22 legislative powers of a municipality creating an authority under
23 this act.

24 (R) "INFRASTRUCTURE IMPROVEMENTS" MEANS A STREET, ROAD,
25 SIDEWALK, PARKING FACILITY, PEDESTRIAN MALL, ALLEY,
26 BRIDGE, SEWER, SEWAGE TREATMENT PLANT, PROPERTY DESIGNED TO
27 REDUCE, ELIMINATE, OR PREVENT THE SPREAD OF IDENTIFIED SOIL OR
GROUNDWATER CONTAMINATION, DRAINAGE SYSTEM, WATERWAY, WATERLINE,

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

6

1 WATER STORAGE FACILITY, RAIL LINE, UTILITY LINE OR PIPELINE, OR
2 OTHER SIMILAR OR RELATED STRUCTURE OR IMPROVEMENT, TOGETHER WITH
3 NECESSARY EASEMENTS FOR THE STRUCTURE OR IMPROVEMENT, OWNED OR
4 USED BY A PUBLIC AGENCY OR FUNCTIONALLY CONNECTED TO SIMILAR OR
5 SUPPORTING PROPERTY OWNED OR USED BY A PUBLIC AGENCY, OR DESIGNED
6 AND DEDICATED TO USE BY, FOR THE BENEFIT OF, OR FOR THE PROTEC-
7 TION OF THE HEALTH, WELFARE, OR SAFETY OF THE PUBLIC GENERALLY,
8 WHETHER OR NOT USED BY A SINGLE BUSINESS ENTITY, PROVIDED THAT
9 ANY ROAD, STREET, OR BRIDGE SHALL BE CONTINUOUSLY OPEN TO PUBLIC
10 ACCESS AND THAT OTHER PROPERTY SHALL BE LOCATED IN PUBLIC EASE-
11 MENTS OR RIGHTS-OF-WAY AND SIZED TO ACCOMMODATE REASONABLY FORE-
12 SEEABLE DEVELOPMENT OF ELIGIBLE PROPERTY IN ADJOINING AREAS.

13 (S) ~~(O)~~ "Initial taxable value" means the taxable value of
14 an eligible property identified in and subject to a brownfield
15 plan at the time the resolution adding that eligible property in
16 the brownfield plan is adopted, as shown by the most recent
17 assessment roll for which equalization has been completed at the
18 time the resolution is adopted. Property exempt from taxation at
19 the time the initial taxable value is determined shall be
20 included with the initial taxable value of zero. Property for
21 which a specific tax is paid in lieu of property tax shall not be
22 considered exempt from taxation. The state tax commission shall
23 prescribe the method for calculating the initial taxable value of
24 property for which a specific tax was paid in lieu of property
25 tax.

26 (T) ~~(P)~~ "Local taxes" means all taxes levied other than
27 taxes levied for school operating purposes.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

7

- 1 (U) ~~(q)~~ "Municipality" means all of the following:
- 2 (i) A city.
- 3 (ii) A village.
- 4 (iii) A township in those areas of the township that are
5 outside of a village.
- 6 (iv) A township in those areas of the township that are in a
7 village upon the concurrence by resolution of the village in
8 which the zone would be located.
- 9 (v) A county upon the concurrence by resolution of the city
10 or village or township in which the zone would be located.
- 11 (V) "QUALIFIED LOCAL GOVERNMENTAL UNIT" MEANS THAT TERM AS
12 DEFINED IN THE OBSOLETE PROPERTY REHABILITATION ACT.
- 13 (W) "QUALIFIED TAXPAYER" MEANS THAT TERM AS DEFINED IN
14 SECTIONS 38D AND 38G OF THE SINGLE BUSINESS TAX ACT, 1975 PA 228,
15 MCL 208.38D AND 208.38G.
- 16 (X) ~~(r)~~ "Remedial action plan" means a plan that meets
17 both of the following requirements:
- 18 (i) Is a remedial action plan as that term is defined in
19 section 20101 of ~~part 201 of Act No. 451 of the Public Acts of~~
20 ~~1994, being section 324.20101 of the Michigan Compiled Laws~~ THE
21 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
22 MCL 324.20101.
- 23 (ii) Describes each individual activity to be conducted to
24 complete ~~an~~ eligible ~~activity~~ ACTIVITIES and the associated
25 costs of each individual activity.
- 26 (Y) ~~(s)~~ "Response activity" means that term as defined in
27 section 20101 of ~~part 201 of Act No. 451 of the Public Acts of~~

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

8

1 ~~1994, being section 324.20101 of the Michigan Compiled Laws~~ THE
2 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
3 MCL 324.20101.

4 (Z) ~~(t)~~ "Specific taxes" means a tax levied under ~~Act~~
5 No. 198 of the Public Acts of 1974, being sections 207.551 to
6 207.572 of the Michigan Compiled Laws 1974 PA 198, MCL 207.551
7 TO 207.572; the commercial redevelopment act, ~~Act No. 255 of the~~
8 Public Acts of 1978, being sections 207.651 to 207.668 of the
9 Michigan Compiled Laws 1978 PA 255, MCL 207.651 TO 207.668; the
10 enterprise zone act, ~~Act No. 224 of the Public Acts of 1985,~~
11 being sections 125.2101 to 125.2123 of the Michigan Compiled
12 Laws; ~~Act No. 189 of the Public Acts of 1953, being sections~~
13 211.181 to 211.182 of the Michigan Compiled Laws 1985 PA 224,
14 MCL 125.2101 TO 125.2123; 1953 PA 189, MCL 211.181 TO 211.182;
15 ~~or~~ the technology park development act, ~~Act No. 385 of the~~
16 Public Acts of 1984, being sections 207.701 to 207.718 of the
17 Michigan Compiled Laws 1984 PA 385, MCL 207.701 TO 207.718; OR
18 THE OBSOLETE PROPERTY REHABILITATION ACT.

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

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

9

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

9 (BB) ~~(v)~~ "Taxable value" means the value determined under
10 section 27a of the general property tax act, ~~Act No. 206 of the~~
11 ~~Public Acts of 1893, being section 211.27a of the Michigan~~
12 ~~Compiled Laws~~ 1893 PA 206, MCL 211.27A.

13 (CC) ~~(w)~~ "Taxes levied for school operating purposes"
14 means all of the following:

15 (i) The taxes levied by a local school district for operat-
16 ing purposes.

17 (ii) The taxes levied under the state education tax act,
18 ~~Act No. 331 of the Public Acts of 1993, being sections 211.901~~
19 ~~to 211.906 of the Michigan Compiled Laws~~ 1993 PA 331,
20 MCL 211.901 TO 211.906.

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

23 (DD) ~~(x)~~ "Work plan" means a plan that describes each
24 individual activity to be conducted to complete ~~an~~ eligible
25 ~~activity~~ ACTIVITIES and the associated costs of each individual
26 activity. ~~as approved by the department.~~

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

10

1 (EE) ~~(y)~~ "Zone" means a brownfield redevelopment zone
2 designated under ~~section 4~~ THIS ACT.

3 Sec. 3. (1) A municipality may establish 1 or more
4 authorities. An authority WITH ZONES ESTABLISHED BEFORE THE
5 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SUBSECTION (2)
6 SHALL EXERCISE ITS POWERS WITHIN ITS DESIGNATED ZONES. AN
7 AUTHORITY ESTABLISHED AFTER THE EFFECTIVE DATE OF THE AMENDATORY
8 ACT THAT ADDED SUBSECTION (2) shall exercise its powers ~~in its~~
9 ~~zone or zones~~ OVER ANY ELIGIBLE PROPERTY LOCATED IN THE
10 MUNICIPALITY.

11 (2) AN AUTHORITY WITH ZONES ESTABLISHED BEFORE THE EFFECTIVE
12 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION MAY ALTER
13 OR AMEND THE BOUNDARIES OF THOSE ZONES IF THE AUTHORITY HOLDS A
14 PUBLIC HEARING ON THE ALTERATION OR AMENDMENT USING THE PROCE-
15 DURES UNDER SECTION 4(2), (3), AND (4).

16 (3) ~~(2)~~ The authority shall be a public body corporate
17 that may sue and be sued in a court of competent jurisdiction.
18 The authority possesses all the powers necessary to carry out the
19 purpose of its incorporation. The enumeration of a power in this
20 act is not a limitation upon the general powers of the
21 authority. The powers granted in this act to an authority may be
22 exercised whether or not bonds are issued by the authority.

23 (4) A QUALIFIED LOCAL GOVERNMENTAL UNIT MAY ENTER INTO A
24 WRITTEN AGREEMENT WITH THE COUNTY IN WHICH THE QUALIFIED LOCAL
25 GOVERNMENTAL UNIT IS LOCATED TO EXERCISE THE POWERS GRANTED TO
26 THE QUALIFIED LOCAL GOVERNMENTAL UNIT UNDER THIS ACT.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

11

1 Sec. 4. (1) A governing body may declare by resolution
2 adopted by a majority of its members elected and serving its
3 intention to create and provide for the operation of an
4 authority.

5 (2) In the resolution of intent, the governing body shall
6 set a date for holding a public hearing on the adoption of a pro-
7 posed resolution creating the authority. ~~and designating the~~
8 ~~boundaries of the zone.~~ Notice of the public hearing shall be
9 published twice in a newspaper of general circulation in the
10 municipality, not less than 20 nor more than 40 days before the
11 date of the hearing. The notice shall state the date, time, and
12 place of the hearing. ~~, and shall describe the area or areas of~~
13 ~~the municipality to be included within the proposed zone.~~ The
14 ~~areas to be included within a proposed zone may include noncon-~~
15 ~~tiguous parcels of property, all of which shall be considered~~
16 ~~within the boundaries of the zone.~~ At that hearing, a citizen,
17 taxpayer, official from a taxing jurisdiction whose millage may
18 be subject to capture under a brownfield plan, ~~in the proposed~~
19 ~~zone,~~ or property owner of the municipality has the right to be
20 heard in regard to the establishment of the authority. ~~and the~~
21 ~~boundaries of the proposed zone.~~ The governing body of the
22 municipality shall not incorporate land into the zone not
23 included in the description contained in the notice of public
24 hearing, but it may eliminate described lands from the zone in
25 the final determination of the boundaries without additional
26 notice.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

12

1 (3) Not more than 30 days after the public hearing, if the
2 governing body intends to proceed with the establishment of the
3 authority, the governing body shall adopt, by majority vote of
4 its members elected and serving, a resolution establishing the
5 authority. ~~and designating the boundaries of the zone within~~
6 ~~which the authority shall exercise its powers.~~ The adoption of
7 the resolution is subject to all applicable statutory or charter
8 provisions with respect to the approval or disapproval by the
9 chief executive or other officer of the municipality and the
10 adoption of a resolution over his or her veto. This resolution
11 shall be filed with the secretary of state promptly after its
12 adoption.

13 ~~(4) The governing body may alter or amend the boundaries of~~
14 ~~the zone to include or exclude lands from the zone in accordance~~
15 ~~with the same requirements prescribed for adopting the resolution~~
16 ~~creating the authority.~~

17 (4) ~~(5)~~ The proceedings establishing an authority shall be
18 presumptively valid unless contested in a court of competent
19 jurisdiction within 60 days after the filing of the resolution
20 with the secretary of state.

21 (5) ~~(6)~~ The exercise by an authority of the powers con-
22 ferred by this act shall be considered to be an essential govern-
23 mental function and benefit to, and a legitimate public purpose
24 of, the state, the authority, and the municipality or units.

25 Sec. 5. (1) Each authority shall be under the supervision
26 and control of a board chosen by the governing body. Subject to

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

13

1 subsection (2), the governing body may by majority vote designate
2 1 of the following to constitute the board:

3 (a) The board of directors of the economic development cor-
4 poration of the municipality established under the economic
5 development corporations act, ~~Act No. 338 of the Public Acts of~~
6 ~~1974, being sections 125.1601 to 125.1636 of the Michigan~~
7 ~~Compiled Laws~~ 1974 PA 338, MCL 125.1601 TO 125.1636.

8 (b) The trustees of the board of a downtown development
9 authority established under ~~Act No. 197 of the Public Acts of~~
10 ~~1975, being sections 125.1651 to 125.1681 of the Michigan~~
11 ~~Compiled Laws, if the zone includes an area within the boundaries~~
12 ~~of the district of that downtown development authority~~ 1975
13 PA 197, MCL 125.1651 TO 125.1681.

14 (c) The trustees of the board of a tax increment financing
15 authority established under the tax increment finance authority
16 act, ~~Act No. 450 of the Public Acts of 1980, being sections~~
17 ~~125.1801 to 125.1830 of the Michigan Compiled Laws, if the zone~~
18 ~~includes an area within the boundaries of the district of that~~
19 ~~tax increment financing authority~~ 1980 PA 450, MCL 125.1801 TO
20 125.1830.

21 (d) The trustees of the board of a local development financ-
22 ing authority established under the local development financing
23 act, ~~Act No. 281 of the Public Acts of 1986, being sections~~
24 ~~125.2151 to 125.2174 of the Michigan Compiled Laws, if the zone~~
25 ~~includes an area within the boundaries of the district of that~~
26 ~~local development financing authority~~ 1986 PA 281, MCL 125.2151
27 TO 125.2174.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

14

1 (e) Not less than 5 nor more than 9 persons appointed by the
2 chief executive officer of the municipality subject to the
3 approval of the governing body. Of the initial members appoint-
4 ed, an equal number, as near as practicable, shall be appointed
5 for 1 year, 2 years, and 3 years. A member shall hold office
6 until the member's successor is appointed and qualified.
7 Thereafter, each member shall serve for a term of 3 years. An
8 appointment to fill a vacancy shall be made by the chief execu-
9 tive officer of the municipality for the unexpired term only.
10 Members of the board shall serve without compensation, but shall
11 be reimbursed for reasonable actual and necessary expenses.

12 (2) The governing body of a municipality in which a board
13 described in subsection (1)(b), (c), or (d) has been established
14 shall designate the trustees of 1 of those boards to constitute
15 the board. This subsection shall only apply in the event a board
16 described in subsection (1)(b), (c), or (d) is authorized under
17 subsection (1) to serve as the board of the authority. ~~and all~~
18 ~~the parcels in the brownfield zone are in the existing authority~~
19 ~~described in subsection (1)(b), (c), or (d).~~

20 (3) The members shall elect 1 of their membership as chair-
21 person and another as vice-chairperson. The members may desig-
22 nate and elect other officers of the board as they consider
23 necessary.

24 (4) Before assuming the duties of office, a member shall
25 qualify by taking and subscribing to the oath of office provided
26 in section 1 of article XI of the state constitution of 1963.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

15

1 (5) The board shall adopt rules governing its procedure and
2 the holding of regular meetings, subject to the approval of the
3 governing body. Special meetings may be held when called in the
4 manner provided in the rules of the board. Meetings of the board
5 shall be open to the public, in accordance with the open meetings
6 act, ~~Act No. 267 of the Public Acts of 1976, being sections~~
7 ~~15.261 to 15.275 of the Michigan Compiled Laws 1976 PA 267,~~
8 MCL 15.261 TO 15.275.

9 (6) After notice and an opportunity to be heard, a member of
10 the board appointed under subsection (1)(e) may be removed before
11 the expiration of his or her term for cause by the governing
12 body. Removal of a member is subject to review by the circuit
13 court.

14 (7) All financial records of an authority shall be open to
15 the public under the freedom of information act, ~~Act No. 442 of~~
16 ~~the Public Acts of 1976, being sections 15.231 to 15.246 of the~~
17 ~~Michigan Compiled Laws 1976 PA 442, MCL 15.231 TO 15.246.~~

18 (8) A majority of the members of the board appointed and
19 serving shall constitute a quorum. Action may be taken by the
20 board at a meeting upon a vote of the majority of the members
21 present.

22 Sec. 7. (1) An authority may do 1 or more of the
23 following:

24 (a) Adopt, amend, and repeal bylaws for the regulation of
25 its affairs and the conduct of its business.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

16

1 (b) Incur and expend funds to pay or reimburse a public or
2 private person for costs of eligible activities attributable to
3 an eligible property.

4 (c) As approved by the municipality, incur costs and expend
5 funds from the local site remediation revolving fund created
6 under section 8 for purposes authorized in that section.

7 (d) Make and enter into contracts necessary or incidental to
8 the exercise of its powers and the performance of its duties,
9 including but not limited to lease purchase agreements, land con-
10 tracts, installment sales agreements, and loan agreements.

11 (e) On terms and conditions and in a manner and for consid-
12 eration the authority considers proper or for no monetary consid-
13 eration, own, mortgage, convey, or otherwise dispose of, or lease
14 as lessor or lessee, land and other property, real or personal,
15 or rights or interests in the property, that the authority deter-
16 mines are reasonably necessary to achieve the purposes of this
17 act, and grant or acquire licenses, easements, and options with
18 respect to the property.

19 (f) Acquire, maintain, repair, or operate all devices neces-
20 sary to ensure continued eligible activities on eligible
21 property.

22 (g) Accept grants and donations of property, labor, or other
23 things of value from a public or private source.

24 (h) Incur costs in connection with the performance of its
25 authorized functions, including, but not limited to, administra-
26 tive costs and architect, engineer, legal, or accounting fees.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

17

1 (i) Study, develop, and prepare the reports or plans the
2 authority considers necessary to assist it in the exercise of its
3 powers under this act and to monitor and evaluate the progress
4 ~~made in the development of the zone~~ UNDER THIS ACT.

5 (j) Procure insurance against loss in connection with the
6 authority's property, assets, or activities.

7 (k) Invest the money of the authority at the authority's
8 discretion in obligations determined proper by the authority, and
9 name and use depositories for its money.

10 (l) Make loans, participate in the making of loans, under-
11 take commitments to make loans and mortgages, buy and sell loans
12 and mortgages at public or private sale, rewrite loans and mort-
13 gages, discharge loans and mortgages, foreclose on a mortgage,
14 commence an action to protect or enforce a right conferred upon
15 the authority by a law, mortgage, loan, contract, or other agree-
16 ment, bid for and purchase property that was the subject of the
17 mortgage at a foreclosure or other sale, acquire and take posses-
18 sion of the property and in that event compute, administer, pay
19 the principal and interest on obligations incurred in connection
20 with that property, and dispose of and otherwise deal with the
21 property, in a manner as may be necessary or desirable to protect
22 the interests of the authority.

23 (m) Borrow money and issue its notes under the municipal
24 finance act, ~~Act No. 202 of the Public Acts of 1943, being sec-~~
25 ~~tions 131.1 to 139.3 of the Michigan Compiled Laws 1943 PA 202,~~
26 MCL 131.1 TO 139.3, in anticipation of collection of tax
27 increment revenues.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

18

1 (n) Do all other things necessary or convenient to achieve
2 the objectives and purposes of the authority, this act, or other
3 laws that relate to the purposes and responsibilities of the
4 authority.

5 (2) The authority shall determine the captured taxable value
6 of each parcel of eligible property. ~~that is included in a~~
7 ~~zone.~~ The captured taxable value of a parcel shall not be less
8 than zero.

9 (3) A municipality may transfer the funds of the municipal-
10 ity to an authority or to another person on behalf of the author-
11 ity in anticipation of repayment by the authority.

12 Sec. 8. (1) An authority may establish a local site remedi-
13 ation revolving fund. A local site remediation revolving fund
14 shall consist of money available under section 13(5) and may also
15 consist of money appropriated or otherwise made available from
16 public or private sources. An authority shall separately account
17 for money deposited to the fund that is directly derived from tax
18 increment revenues levied for school operating purposes.

19 (2) The local site remediation revolving fund may be used
20 only to pay the costs of eligible activities on eligible property
21 that is located within ~~the zone of an authority established by~~
22 the municipality.

23 (3) An authority or a municipality on behalf of an authority
24 may incur an obligation for the purpose of funding a local site
25 remediation revolving fund.

26 Sec. 13. (1) Subject to section 15, the board may implement
27 a brownfield plan. The brownfield plan may apply to 1 or more

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

19

1 parcels of eligible property ~~within the zone~~ whether or not
2 those parcels of eligible property are contiguous and may be
3 amended to apply to additional parcels of eligible property.
4 ~~within the zone.~~ If more than 1 parcel of eligible property is
5 included within the plan, the tax increment revenues under the
6 plan shall be determined individually for each parcel of eligible
7 property. Each plan OR AN AMENDMENT TO A PLAN shall be approved
8 by the governing body of the municipality and shall contain all
9 of the following:

10 (a) A description of the costs of the plan intended to be
11 paid for with the tax increment revenues, including a brief sum-
12 mary of the eligible activities that are proposed for each eligi-
13 ble property.

14 (b) An estimate of the captured taxable value and tax incre-
15 ment revenues for each year of the plan from each parcel of eli-
16 gible property and in THE aggregate. The plan may provide for
17 the use of part or all of the captured taxable value, including
18 deposits in the local site remediation revolving fund, but the
19 portion intended to be used shall be clearly stated in the plan.
20 The plan shall not provide either for an exclusion from captured
21 taxable value of a portion of the captured taxable value or for
22 an exclusion of the tax levy of 1 or more taxing jurisdictions
23 unless the tax levy is excluded from tax increment revenues in
24 section ~~2(u)~~ 2(AA), or unless the tax levy is excluded from
25 capture under section 15.

26 (c) The method by which the costs of the plan will be
27 financed, including a description of any advances made or

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

20

1 anticipated to be made for the costs of the plan from the
2 municipality.

3 (d) The maximum amount of note or bonded indebtedness to be
4 incurred, if any.

5 (e) The duration of the brownfield plan, which shall not
6 exceed the lesser of the period authorized under subsections (4)
7 and (5) or 30 years.

8 (f) An estimate of the impact of tax increment financing on
9 the revenues of all taxing jurisdictions in which the eligible
10 property is located.

11 (g) A legal description of each parcel of eligible property
12 to which the plan applies, a map showing the location and dimen-
13 sions of each eligible property, A STATEMENT OF THE CHARACTERIS-
14 TICS THAT QUALIFY THE PROPERTY AS ELIGIBLE PROPERTY, and a state-
15 ment of whether personal property is included as part of the eli-
16 gible property.

17 (h) Estimates of the number of persons residing on each eli-
18 gible property to which the plan applies and the number of fami-
19 lies and individuals to be displaced. If occupied residences are
20 designated for acquisition and clearance by the authority, the
21 plan shall include a demographic survey of the persons to be dis-
22 placed, a statistical description of the housing supply in the
23 community, including the number of private and public units in
24 existence or under construction, the condition of those in exis-
25 tence, the number of owner-occupied and renter-occupied units,
26 the annual rate of turnover of the various types of housing and
27 the range of rents and sale prices, an estimate of the total

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

21

1 demand for housing in the community, and the estimated capacity
2 of private and public housing available to displaced families and
3 individuals.

4 (i) A plan for establishing priority for the relocation of
5 persons displaced by implementation of the plan.

6 (j) Provision for the costs of relocating persons displaced
7 by implementation of the plan, and financial assistance and reim-
8 bursement of expenses, including litigation expenses and expenses
9 incident to the transfer of title, in accordance with the stan-
10 dards and provisions of the ~~federal~~ uniform relocation assist-
11 ance and real property acquisition policies act of 1970, Public
12 Law 91-646, 84 Stat. 1894.

13 (k) A strategy for compliance with ~~Act No. 227 of the~~
14 ~~Public Acts of 1972, being sections 213.321 to 213.332 of the~~
15 ~~Michigan Compiled Laws~~ 1972 PA 227, MCL 213.321 TO 213.332.

16 (l) A description of proposed use of the local site remedia-
17 tion revolving fund.

18 (m) Other material that the authority or governing body con-
19 siders pertinent.

20 (2) The percentage of all taxes levied on a parcel of eligi-
21 ble property for school operating expenses that is captured and
22 used under a brownfield plan and all tax increment finance plans
23 under ~~Act No. 197 of the Public Acts of 1975, being sections~~
24 ~~125.1651 to 125.1681 of the Michigan Compiled Laws~~ 1975 PA 197,
25 MCL 125.1651 TO 125.1681, the tax increment finance authority
26 act, ~~Act No. 450 of the Public Acts of 1980, being sections~~
27 ~~125.1801 to 125.1830 of the Michigan Compiled Laws~~ 1980 PA 450,

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400 as amended April 5, 2000

22

1 MCL 125.1801 TO 125.1830, or the local development financing act,
2 ~~Act No. 281 of the Public Acts of 1986, being sections 125.2151~~
3 ~~to 125.2174 of the Michigan Compiled Laws 1986 PA 281,~~
4 MCL 125.2151 TO 125.2174, shall not be greater than the combina-
5 tion of the plans' percentage capture and use of all local taxes
6 levied for purposes other than for the payment of principal of
7 and interest on either obligations approved by the electors or
8 obligations pledging the unlimited taxing power of the local unit
9 of government. This subsection shall apply only when taxes
10 levied for school operating purposes are subject to capture under
11 section 15.

12 (3) Except as provided in ~~subsection~~ SUBSECTIONS (5) AND (16),
13 tax increment rev-
14 enues related to a brownfield plan shall be used only for costs
15 of eligible activities attributable to the eligible property, the
16 captured taxable value of which produces the tax increment reve-
17 nues, including the cost of principal of and interest on any
18 obligation issued by the authority to pay the costs of eligible
19 activities attributable to the eligible property, and the reason-
20 able costs of preparing a work plan or remedial action plan for
21 the eligible property, including the actual cost of the
22 ~~department's~~ review of the work plan or remedial action plan
23 under section 15.

24 (4) Except as provided in subsection (5), a brownfield plan
25 shall not authorize the capture of tax increment revenue from
26 eligible property after the year in which the total amount of tax
27 increment revenues captured is equal to the sum of the costs of
eligible activities attributable to the eligible property

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

23

1 including the cost of principal of and interest on any obligation
2 issued by the authority to pay the costs of eligible activities
3 on the eligible property, and the reasonable cost of preparing a
4 work plan or remedial action plan for eligible property, and the
5 actual cost of the department's review of the work plan or reme-
6 dial action plan.

7 (5) A brownfield plan may authorize the capture of addi-
8 tional tax increment revenue from an eligible property in excess
9 of the amount authorized under subsection (4) during the time of
10 capture for the purpose of paying the costs of eligible activi-
11 ties under subsection (3), or for not more than 5 years after the
12 time that capture is required for the purpose of paying the costs
13 of eligible activities under subsection (3), or both. Excess
14 revenues captured under this subsection shall be deposited in the
15 local site remediation revolving fund created under section 8 and
16 used for the purposes authorized in section 8. If tax increment
17 revenues levied for school operating purposes from eligible prop-
18 erty are captured by the authority for purposes authorized under
19 subsection (3), the tax increment revenues captured for deposit
20 in the local site remediation revolving fund also may include tax
21 increment revenues levied for school operating purposes in an
22 amount not greater than the tax increment revenues levied for
23 school operating purposes captured from the eligible property by
24 the authority for the purposes authorized under subsection (3).
25 EXCESS REVENUES FROM TAXES LEVIED FOR SCHOOL OPERATING PURPOSES
26 FOR ELIGIBLE ACTIVITIES AUTHORIZED UNDER SUBSECTION (15) BY THE

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

24

1 MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL NOT BE CAPTURED FOR
2 DEPOSIT IN THE LOCAL SITE REMEDIATION REVOLVING FUND.

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

6 (7) Costs of eligible activities attributable to eligible
7 property include all costs that are necessary or related to a
8 release from the eligible property, including eligible activities
9 on properties affected by a release from the eligible property.
10 For purposes of this subsection, "release" means that ~~word~~ TERM
11 as defined in section 20101 ~~of part 201 (environmental~~
12 ~~remediation)~~ of the natural resources and environmental protec-
13 tion act, ~~Act No. 451 of the Public Acts of 1994, being~~
14 ~~section 324.20101 of the Michigan Compiled Laws~~ 1994 PA 451,
15 MCL 324.20101.

16 (8) Costs of a response activity paid with tax increment
17 revenues that are captured pursuant to subsection (3) may be
18 recovered from a person who is liable for the costs of eligible
19 activities at an eligible property. This state or an authority
20 may undertake cost recovery for tax increment revenue captured.
21 Before an authority or this state may institute a cost recovery
22 action, it must provide the other with 120 days' notice. This
23 state or an authority that recovers costs under this subsection
24 shall apply those recovered costs to the following, in the fol-
25 lowing order of priority:

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

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

25

1 (b) One of the following:

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

10 (ii) If this state undertakes a cost recovery action, this
11 state shall deposit the remaining recovered funds into the revi-
12 talization revolving loan fund established under section 20108a
13 ~~of part 201 (environmental remediation)~~ of the natural
14 resources and environmental protection act, ~~Act No. 451 of the~~
15 ~~Public Acts of 1994, being section 324.20108a of the Michigan~~
16 ~~Compiled Laws~~ 1994 PA 451, MCL 324.20108A.

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

24 (9) Approval of the brownfield plan OR AN AMENDMENT TO A
25 BROWNFIELD PLAN shall be in accordance with the notice and
26 approval provisions of this section and section 14.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

26

1 (10) Before approving a brownfield plan for an eligible
2 property, the governing body shall ~~provide notice and a~~
3 ~~reasonable opportunity to the taxing jurisdictions levying taxes~~
4 ~~subject to capture to express their views and recommendations~~
5 ~~regarding the plan. The authority shall fully inform the taxing~~
6 ~~jurisdictions about the fiscal and economic implications of the~~
7 ~~proposed plan before the public hearing held under section 4.~~

8 HOLD A PUBLIC HEARING ON THE BROWNFIELD PLAN. NOTICE OF THE TIME
9 AND PLACE OF THE HEARING SHALL BE GIVEN BY PUBLICATION TWICE IN A
10 NEWSPAPER OF GENERAL CIRCULATION DESIGNATED BY THE MUNICIPALITY,
11 THE FIRST OF WHICH SHALL BE NOT LESS THAN 20 OR MORE THAN 40 DAYS
12 BEFORE THE DATE SET FOR THE HEARING.

13 (11) NOTICE OF THE TIME AND PLACE OF THE HEARING ON A BROWN-
14 FIELD PLAN SHALL CONTAIN ALL OF THE FOLLOWING:

15 (A) A DESCRIPTION OF THE PROPERTY TO WHICH THE PLAN APPLIES
16 IN RELATION TO EXISTING OR PROPOSED HIGHWAYS, STREETS, STREAMS,
17 OR OTHERWISE.

18 (B) A STATEMENT THAT MAPS, PLATS, AND A DESCRIPTION OF THE
19 BROWNFIELD PLAN ARE AVAILABLE FOR PUBLIC INSPECTION AT A PLACE
20 DESIGNATED IN THE NOTICE AND THAT ALL ASPECTS OF THE BROWNFIELD
21 PLAN ARE OPEN FOR DISCUSSION AT THE PUBLIC HEARING REQUIRED BY
22 THIS SUBSECTION.

23 (C) ANY OTHER INFORMATION THAT THE GOVERNING BODY CONSIDERS
24 APPROPRIATE.

25 (12) AT THE TIME SET FOR THE HEARING ON THE BROWNFIELD PLAN
26 REQUIRED UNDER SUBSECTION (10), THE GOVERNING BODY SHALL PROVIDE
27 AN OPPORTUNITY FOR INTERESTED PERSONS TO BE HEARD AND SHALL

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400 as amended April 5, 2000

27

1 RECEIVE AND CONSIDER COMMUNICATIONS IN WRITING WITH REFERENCE TO
2 THE BROWNFIELD PLAN. THE GOVERNING BODY SHALL MAKE AND PRESERVE
3 A RECORD OF THE PUBLIC HEARING, INCLUDING ALL DATA PRESENTED AT
4 THE HEARING.

5 (13) NOT LESS THAN 20 DAYS BEFORE THE HEARING ON THE BROWN-
6 FIELD PLAN, THE GOVERNING BODY SHALL PROVIDE NOTICE OF THE HEAR-
7 ING TO THE TAXING JURISDICTIONS THAT LEVY TAXES SUBJECT TO CAP-
8 TURE UNDER THIS ACT. THE AUTHORITY SHALL FULLY INFORM THE TAXING
9 JURISDICTIONS ABOUT THE FISCAL AND ECONOMIC IMPLICATIONS OF THE
10 PROPOSED BROWNFIELD PLAN. AT THAT HEARING, AN OFFICIAL FROM A
11 TAXING JURISDICTION WITH MILLAGE THAT WOULD BE SUBJECT TO CAPTURE
12 UNDER THIS ACT HAS THE RIGHT TO BE HEARD IN REGARD TO THE ADOP-
13 TION OF THE BROWNFIELD PLAN.

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

22 (15) IF A BROWNFIELD PLAN INCLUDES THE CAPTURE OF TAXES
23 LEVIED FOR SCHOOL OPERATING PURPOSES, APPROVAL OF A WORK PLAN BY
24 THE MICHIGAN ECONOMIC GROWTH AUTHORITY BEFORE JANUARY 1, 2003 TO
25 USE SCHOOL OPERATING TAXES AND A DEVELOPMENT AGREEMENT
26 BETWEEN THE MUNICIPALITY AND THE OWNER OF THE ELIGIBLE PROPERTY
27 ARE REQUIRED IF THE REVENUES WILL BE USED FOR INFRASTRUCTURE

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400 as amended April 5 and April 6, 2000 28

1 IMPROVEMENTS THAT DIRECTLY BENEFIT ELIGIBLE PROPERTY, DEMOLITION
2 OF STRUCTURES THAT IS NOT RESPONSE ACTIVITY UNDER PART 201 OF THE
3 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
4 MCL 324.20101 TO 324.20142, LEAD OR ASBESTOS ABATEMENT, OR SITE
5 PREPARATION THAT IS NOT RESPONSE ACTIVITY UNDER SECTION 201 OF
6 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994
7 PA 451, MCL 324.20101. THE ELIGIBLE ACTIVITIES TO BE CONDUCTED
8 DESCRIBED IN THIS SUBSECTION SHALL BE CONSISTENT WITH THE WORK
9 PLAN SUBMITTED BY THE AUTHORITY TO THE MICHIGAN ECONOMIC GROWTH
10 AUTHORITY. THE DEPARTMENT'S APPROVAL IS NOT REQUIRED FOR THE
11 CAPTURE OF TAXES LEVIED FOR SCHOOL OPERATING PURPOSES FOR ELIGI-
12 BLE ACTIVITIES DESCRIBED IN THIS SUBSECTION.

(16) A BROWNFIELD AUTHORITY MAY REIMBURSE REASONABLE ADMINISTRATIVE AND OPERATING COSTS RELATED DIRECTLY TO WORK CONDUCTED BY THE AUTHORITY ON PROSPECTIVE ELIGIBLE PROPERTIES AND ON PROSPECTIVE ELIGIBLE ACTIVITIES PRIOR TO APPROVAL OF THE BROWNFIELD PLAN ONLY FROM CAPTURED LOCAL TAXES NOT TO EXCEED \$50,000.00 FOR EACH AUTHORITY IN EACH FISCAL YEAR WITH THE PRIOR APPROVAL OF THE DEPARTMENT OF TREASURY WHICH WILL ACT ON AN APPROVAL APPLICATION WITHIN 60 DAYS.

13 Sec. 15. (1) An authority shall not do any of the
14 following:

15 (a) ~~Capture~~ FOR ELIGIBLE ACTIVITIES NOT DESCRIBED IN SEC-
16 TION 13(15), USE taxes levied for school operating purposes CAPTURED
17 from eligible property unless the eligible activities to be conducted
18 on the eligible property are ELIGIBLE ACTIVITIES UNDER PART 201
19 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994
20 PA 451, MCL 324.20101 TO 324.20142, consistent with a work plan
21 or remedial action plan approved by the department after ~~the~~
22 ~~effective date of this act~~ JULY 24, 1996 and before January 1,
23 ~~2001~~ 2003.

24 (b) ~~Use~~ FOR ELIGIBLE ACTIVITIES NOT DESCRIBED IN SECTION
25 13(15), USE funds from a local site remediation revolving fund
26 that are derived from taxes levied for school operating purposes
27 unless the eligible activities to be conducted are ELIGIBLE

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400 as amended April 5, 2000

29

1 ACTIVITIES UNDER PART 201 OF THE NATURAL RESOURCES AND
2 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.20101 TO
3 324.20142, consistent with a work plan or remedial action plan
4 that has been approved by the department after ~~the effective~~
5 ~~date of this act~~ JULY 24, 1996.

6 (C) USE FUNDS FROM A LOCAL SITE REMEDIATION REVOLVING FUND
7 CREATED PURSUANT TO SECTION 8 THAT ARE DERIVED FROM TAXES LEVIED
8 FOR SCHOOL OPERATING PURPOSES FOR THE ELIGIBLE ACTIVITIES
9 DESCRIBED IN SECTION 13(15) UNLESS THE ELIGIBLE ACTIVITIES TO BE
10 CONDUCTED ARE CONSISTENT WITH A WORK PLAN APPROVED BY THE
11 MICHIGAN ECONOMIC GROWTH AUTHORITY.

12 (D) USE TAXES CAPTURED FROM ELIGIBLE PROPERTY TO PAY FOR
13 ELIGIBLE ACTIVITIES CONDUCTED BEFORE APPROVAL OF THE BROWNFIELD
14 PLAN EXCEPT FOR COSTS DESCRIBED IN SECTION 13(16).

15 (E) USE TAXES LEVIED FOR SCHOOL OPERATING PURPOSES CAPTURED
16 FROM ELIGIBLE PROPERTY FOR RESPONSE ACTIVITIES THAT BENEFIT A
17 PARTY LIABLE UNDER SECTION 20126 OF THE NATURAL RESOURCES AND
18 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.20126.

19 (F) USE TAXES CAPTURED FROM ELIGIBLE PROPERTY TO PAY FOR
20 ADMINISTRATIVE AND OPERATING ACTIVITIES OF THE AUTHORITY OR THE
21 MUNICIPALITY ON BEHALF OF THE AUTHORITY EXCEPT FOR COSTS DESCRIBED
22 IN SECTION 13(16) AND FOR THE REASONABLE COSTS FOR PREPARING A WORK
23 PLAN OR REMEDIAL ACTION PLAN FOR THE ELIGIBLE PROPERTY. INCLUDING
24 THE ACTUAL COST OF THE REVIEW OF THE WORK PLAN OR REMEDIAL ACTION
25 PLAN UNDER THIS SECTION.

26 (2) To seek department approval of a work plan UNDER SUBSEC-
27 TION (1)(A) OR (B) or remedial action plan, the authority shall
28 submit all of the following for each eligible property:

29 (a) A copy of the brownfield plan.

30 (b) Current ownership information for each eligible property
31 and a summary of available information on proposed future

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

30

1 ownership, including the amount of any delinquent taxes,
2 interest, and penalties that may be due.

3 (c) A summary of available information on the historical and
4 current use of each eligible property, including a brief summary
5 of site conditions and what is known about environmental contami-
6 nation as that term is defined in section 20101 ~~of part 201~~
7 ~~(environmental remediation)~~ of the natural resources and envi-
8 ronmental protection act, ~~Act No. 451 of the Public Acts of~~
9 ~~1994, being section 324.20101 of the Michigan Compiled Laws~~ 1994
10 PA 451, MCL 324.20101.

11 (d) Existing and proposed future zoning for each eligible
12 property.

13 (e) A brief summary of the proposed redevelopment and future
14 use for each eligible property.

15 (f) A separate work plan or remedial action plan, or part of
16 a work plan or remedial action plan, for each eligible activity
17 to be undertaken.

18 (3) Upon receipt of a request for approval of a work plan or
19 remedial action plan under subsection (2) that pertains to base-
20 line environmental assessment activities or due care activities,
21 or both, or a portion of a work plan or remedial action plan that
22 pertains to only baseline environmental assessment activities or
23 due care activities, or both, the department shall provide 1 of
24 the following written responses to the requesting authority
25 within 60 days:

26 (a) An unconditional approval.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

31

1 (b) A conditional approval that delineates specific
2 necessary modifications to the work plan or remedial action plan,
3 including but not limited to individual activities to be added or
4 deleted from the work plan or remedial action plan and revision
5 of costs.

6 (c) If the work plan or remedial action plan lacks suffi-
7 cient information for the department to respond under
8 subdivision (a) or (b), a letter stating with specificity the
9 necessary additions or changes to the work plan or remedial
10 action plan to be submitted before a plan will be considered by
11 the department.

12 (4) In its review of a work plan or remedial action plan,
13 the department shall consider all of the following:

14 (a) Whether the individual activities included in the work
15 plan or remedial action plan are sufficient to complete the eli-
16 gible activity.

17 (b) Whether each individual activity included in the work
18 plan or remedial action plan is required to complete the eligible
19 activity.

20 (c) Whether the cost for each individual activity is
21 reasonable.

22 (5) If the department fails to provide a written response
23 under subsection (3) within 60 days after receipt of a request
24 for approval of a work plan or remedial action plan that pertains
25 to baseline environmental assessment activities or due care
26 activities, or both, the authority may proceed with the baseline
27 environmental assessment activities or due care activities, or

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

32

1 both, as outlined in the work plan or remedial action plan as
2 submitted for approval. Except as provided in subsection (6),
3 baseline environmental assessment activities or due care activi-
4 ties, or both, conducted pursuant to a work plan or remedial
5 action plan that was submitted to the department for approval but
6 for which the department failed to provide a written response
7 under subsection (3) shall be considered approved for the pur-
8 poses of subsection (1).

9 (6) The department may issue a written response to a work
10 plan or remedial action plan that pertains to baseline environ-
11 mental assessment activities or due care activities, or both,
12 more than 60 days but less than 6 months after receipt of a
13 request for approval. If the department issues a written
14 response under this subsection, the authority is not required to
15 conduct individual activities that are in addition to the indi-
16 vidual activities included in the work plan or remedial action
17 plan as it was submitted for approval and failure to conduct
18 these additional activities shall not affect the authority's
19 ability to capture taxes under subsection (1) for the eligible
20 activities described in the work plan or remedial action plan
21 initially submitted under subsection (5). In addition, at the
22 option of the authority, these additional individual activities
23 shall be considered part of the work plan or remedial action plan
24 of the authority and approved for purposes of subsection (1).
25 However, any response by the department under this subsection
26 that identifies ~~addition~~ ADDITIONAL individual activities that
27 must be carried out to satisfy the baseline environmental

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

33

1 assessment or due care requirements, or both, of part 201
2 ~~(environmental remediation)~~ of the natural resources and envi-
3 ronmental protection act, ~~Act No. 451 of the Public Acts of~~
4 ~~1994, being sections 324.20101 to 324.20142 of the Michigan~~
5 ~~Compiled Laws~~ 1994 PA 451, MCL 324.20101 TO 324.20142, must be
6 satisfactorily completed for the baseline environmental assess-
7 ment or due care activities, or both, to be considered acceptable
8 for the purposes of compliance with part 201 of ~~Act No. 451 of~~
9 ~~the Public Acts of 1994~~ THE NATURAL RESOURCES AND ENVIRONMENTAL
10 PROTECTION ACT, 1994 PA 451, MCL 324.20101 TO 324.20142.

11 (7) If the department issues a written response under
12 subsection (6) to a work plan or remedial action plan that per-
13 tains to baseline environmental assessment activities or due care
14 activities, or both, and if the department's written response
15 modifies an individual activity proposed by the work plan or
16 remedial action plan of the authority in a manner that reduces or
17 eliminates a proposed response activity, the authority must com-
18 plete those individual activities included in the baseline envi-
19 ronmental assessment or due care activities, or both, in accord-
20 ance with the department's response in order for that portion of
21 the work plan or remedial action plan to be considered approved
22 for purposes of subsection (1), unless 1 or more of the following
23 conditions apply:

24 (a) Obligations for the individual activity have been issued
25 by the authority, or by a municipality on behalf of the authori-
26 ty, to fund the individual activity prior to issuance of the
27 department's response.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

34

1 (b) The individual activity has commenced or payment for the
2 work has been irrevocably obligated prior to issuance of the
3 department's response.

4 (8) It shall be in the sole discretion of an authority to
5 propose to undertake additional response activities at an eligi-
6 ble property under a brownfield plan. The department shall not
7 require a work plan or remedial action plan for either baseline
8 environmental assessment activities or due care activities, or
9 both, to include additional response activities.

10 (9) The department may reject the portion of a work plan or
11 remedial action plan that includes additional response activities
12 and may consider the level of risk reduction that will be accom-
13 plished by the additional response activities in determining
14 whether to approve or reject the work plan or remedial action
15 plan or a portion of a plan.

16 (10) The department's approval or rejection of a work plan
17 UNDER SUBSECTION (1)(A) OR (B) or remedial action plan for addi-
18 tional response activities is final.

19 (11) The authority shall reimburse the department for the
20 actual cost incurred by the department or a contractor of the
21 department to review a work plan UNDER SUBSECTION (1)(A) OR (B)
22 or remedial action plan under this section. Funds paid to the
23 department under this subsection shall be deposited in the
24 ~~environmental response fund established~~ COST RECOVERY SUBAC-
25 COUNT OF THE CLEANUP AND REDEVELOPMENT FUND CREATED under section
26 20108 ~~of part 201 (environmental remediation)~~ of the natural
27 resources and environmental protection act, ~~Act No. 451 of the~~

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

35

1 ~~Public Acts of 1994, being section 324.20108 of the Michigan~~
2 ~~Compiled Laws— 1994 PA 451, MCL 324.20108.~~

3 (12) The department shall submit a report each year on or
4 before March 1 to each member of the legislature that contains
5 all of the following:

6 (a) A compilation and summary of all the information submit-
7 ted under subsection (2).

8 (b) The amount of revenue this state would have received if
9 taxes levied for school operating purposes had not been captured
10 under this section for the previous calendar year.

11 (c) The amount of revenue each local governmental unit would
12 have received if taxes levied for school operating purposes had
13 not been captured under this section for the previous calendar
14 year.

15 (13) TO SEEK MICHIGAN ECONOMIC GROWTH AUTHORITY APPROVAL OF
16 A WORK PLAN UNDER SUBSECTION (1)(C) OR SECTION 13(15), THE
17 AUTHORITY SHALL SUBMIT ALL OF THE FOLLOWING FOR EACH ELIGIBLE
18 PROPERTY:

19 (A) A COPY OF THE BROWNFIELD PLAN.

20 (B) CURRENT OWNERSHIP INFORMATION FOR EACH ELIGIBLE PROPERTY
21 AND A SUMMARY OF AVAILABLE INFORMATION ON PROPOSED FUTURE OWNER-
22 SHIP, INCLUDING THE AMOUNT OF ANY DELINQUENT TAXES, INTEREST, AND
23 PENALTIES THAT MAY BE DUE.

24 (C) A SUMMARY OF AVAILABLE INFORMATION ON THE HISTORICAL AND
25 CURRENT USE OF EACH ELIGIBLE PROPERTY.

26 (D) EXISTING AND PROPOSED FUTURE ZONING FOR EACH ELIGIBLE
27 PROPERTY.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

36

1 (E) A BRIEF SUMMARY OF THE PROPOSED REDEVELOPMENT AND FUTURE
2 USE FOR EACH ELIGIBLE PROPERTY.

3 (F) A SEPARATE WORK PLAN, OR PART OF A WORK PLAN, FOR EACH
4 ELIGIBLE ACTIVITY DESCRIBED IN SECTION 13(15) TO BE UNDERTAKEN.

5 (G) A COPY OF THE DEVELOPMENT AGREEMENT REQUIRED UNDER SEC-
6 TION 13(15), WHICH SHALL INCLUDE, BUT IS NOT LIMITED TO, A
7 DETAILED SUMMARY OF ANY AND ALL OWNERSHIP INTERESTS, MONETARY
8 CONSIDERATIONS, FEES, REVENUE AND COST SHARING, CHARGES, OR OTHER
9 FINANCIAL ARRANGEMENTS OR OTHER CONSIDERATION BETWEEN THE
10 PARTIES.

11 (14) UPON RECEIPT OF A REQUEST FOR APPROVAL OF A WORK PLAN,
12 THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL PROVIDE 1 OF THE
13 FOLLOWING WRITTEN RESPONSES TO THE REQUESTING AUTHORITY WITHIN 60
14 DAYS:

15 (A) AN UNCONDITIONAL APPROVAL.

16 (B) A CONDITIONAL APPROVAL THAT DELINEATES SPECIFIC NECES-
17 SARY MODIFICATIONS TO THE WORK PLAN, INCLUDING, BUT NOT LIMITED
18 TO, INDIVIDUAL ACTIVITIES TO BE ADDED OR DELETED FROM THE WORK
19 PLAN AND REVISION OF COSTS.

20 (C) IF THE WORK PLAN LACKS SUFFICIENT INFORMATION FOR THE
21 MICHIGAN ECONOMIC GROWTH AUTHORITY TO RESPOND UNDER
22 SUBDIVISION (A) OR (B), A LETTER STATING WITH SPECIFICITY THE
23 NECESSARY ADDITIONS OR CHANGES TO THE WORK PLAN TO BE SUBMITTED
24 BEFORE A PLAN WILL BE CONSIDERED BY THE MICHIGAN ECONOMIC GROWTH
25 AUTHORITY.

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

37

1 (15) IN ITS REVIEW OF A WORK PLAN UNDER SUBSECTION (1)(C) OR
2 SECTION 13(15), THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL
3 CONSIDER ALL OF THE FOLLOWING:

4 (A) WHETHER THE INDIVIDUAL ACTIVITIES INCLUDED IN THE WORK
5 PLAN ARE SUFFICIENT TO COMPLETE THE ELIGIBLE ACTIVITY.

6 (B) WHETHER EACH INDIVIDUAL ACTIVITY INCLUDED IN THE WORK
7 PLAN IS REQUIRED TO COMPLETE THE ELIGIBLE ACTIVITY.

8 (C) WHETHER THE COST FOR EACH INDIVIDUAL ACTIVITY IS
9 REASONABLE.

10 (16) IF THE MICHIGAN ECONOMIC GROWTH AUTHORITY FAILS TO PRO-
11 VIDE A WRITTEN RESPONSE UNDER SUBSECTION (14) WITHIN 90 DAYS
12 AFTER RECEIPT OF A REQUEST FOR APPROVAL OF A WORK PLAN, THE ELI-
13 GIBLE ACTIVITIES SHALL BE CONSIDERED APPROVED AND THE AUTHORITY
14 MAY PROCEED WITH THE ELIGIBLE ACTIVITIES DESCRIBED IN
15 SECTION 13(15) AS OUTLINED IN THE WORK PLAN AS SUBMITTED FOR
16 APPROVAL.

17 (17) THE MICHIGAN ECONOMIC GROWTH AUTHORITY'S APPROVAL OF A
18 WORK PLAN UNDER SECTION 13(15) IS FINAL.

19 (18) THE AUTHORITY SHALL REIMBURSE THE MICHIGAN ECONOMIC
20 GROWTH AUTHORITY FOR THE ACTUAL COST INCURRED BY THE MICHIGAN
21 ECONOMIC GROWTH AUTHORITY OR A CONTRACTOR OF THE MICHIGAN ECO-
22 NOMIC GROWTH AUTHORITY TO REVIEW A WORK PLAN UNDER THIS SECTION.

23 (19) THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL SUBMIT A
24 REPORT EACH YEAR ON OR BEFORE MARCH 1 TO EACH MEMBER OF THE LEG-
25 ISLATURE THAT CONTAINS ALL OF THE FOLLOWING:

26 (A) A COMPILATION AND SUMMARY OF ALL THE INFORMATION
27 SUBMITTED UNDER SUBSECTION (13).

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

38

1 (B) THE AMOUNT OF REVENUE THIS STATE WOULD HAVE RECEIVED IF
2 TAXES LEVIED FOR SCHOOL OPERATING PURPOSES HAD NOT BEEN CAPTURED
3 UNDER THIS SECTION FOR THE PREVIOUS CALENDAR YEAR.

4 (C) THE AMOUNT OF REVENUE EACH LOCAL GOVERNMENTAL UNIT WOULD
5 HAVE RECEIVED IF TAXES LEVIED FOR SCHOOL OPERATING PURPOSES HAD
6 NOT BEEN CAPTURED UNDER THIS SECTION FOR THE PREVIOUS CALENDAR
7 YEAR.

8 (20) ALL TAXES LEVIED FOR SCHOOL OPERATING PURPOSES THAT ARE
9 NOT USED FOR ELIGIBLE ACTIVITIES CONSISTENT WITH A WORK PLAN
10 APPROVED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY OR APPROVED
11 PURSUANT TO SUBSECTION (1)(C) OR SECTION 13(15) SHALL BE DISTRIB-
12 UTED PROPORTIONATELY BETWEEN THE LOCAL SCHOOL DISTRICT AND THE
13 SCHOOL AID FUND.

14 Sec. 16. (1) The municipal and county treasurers shall
15 transmit tax increment revenues to the authority not more than 30
16 days after tax increment revenues are collected.

17 (2) The authority shall expend the tax increment revenues
18 received only in accordance with the brownfield plan. All sur-
19 plus funds not deposited in the local site remediation revolving
20 fund of the authority under section 13(5) shall revert propor-
21 tionately to the respective taxing bodies, EXCEPT AS PROVIDED IN
22 SECTION 15(20). The governing body may abolish the plan when it
23 finds that the purposes for which the plan was established are
24 accomplished. However, the plan shall not be abolished until the
25 principal and interest on bonds issued under section 17 and all
26 other obligations to which the tax increment revenues are pledged

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

39

1 have been paid or funds sufficient to make the payment have been
2 segregated.

3 (3) The authority shall submit annually to the governing
4 body and the state tax commission a financial report on the
5 status of the activities of the authority. The report shall
6 include all of the following:

7 (a) The amount and source of tax increment revenues
8 received.

9 (b) The amount and purpose of expenditures of tax increment
10 revenues.

11 (c) The amount of principal and interest on all outstanding
12 indebtedness.

13 (d) The initial taxable value of all eligible property
14 subject to the brownfield plan.

15 (e) The captured taxable value realized by the authority.

16 (f) Information concerning any transfer of ownership of or
17 interest in each eligible property. ~~within the zone.~~

18 (g) All additional information that the governing body or
19 the state tax commission considers necessary.

20 (4) The ~~department and the~~ state tax commission shall col-
21 lect the financial reports submitted under subsection (3), com-
22 pile and analyze the information contained in those reports, and
23 submit annually a report based on that information to all of the
24 following standing committees of the legislature:

25 (a) In the house of representatives, the ~~conservation,~~
26 ~~environment, and Great Lakes committee and tax policy committee~~

HB 4400, As Passed Senate, April 6, 2000

House Bill No. 4400

40

1 COMMITTEES RESPONSIBLE FOR NATURAL RESOURCE MANAGEMENT,
2 CONSERVATION, ENVIRONMENTAL PROTECTION, AND TAXATION.

3 (b) In the senate, the ~~natural resources and environmental~~
4 ~~affairs committee and the finance committee~~ COMMITTEES RESPONSI-
5 BLE FOR NATURAL RESOURCE MANAGEMENT, CONSERVATION, ENVIRONMENTAL
6 PROTECTION, AND TAXATION.

7 Sec. 19. (1) An authority that completes the purposes for
8 which it was organized shall be dissolved by resolution of the
9 governing body. ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (2), THE
10 property and assets of the authority remaining after the satis-
11 faction of the obligations of the authority shall belong to the
12 municipality or to an agency or instrumentality designated by
13 resolution of the municipality.

14 (2) TAX INCREMENT REVENUES AND THE INTEREST EARNED ON TAX
15 INCREMENT REVENUES SHALL BE DISTRIBUTED AS PROVIDED UNDER SECTION
16 16(2).

17 Enacting section 1. This amendatory act does not take
18 effect unless all of the following bills of the 90th Legislature
19 are enacted into law:

20 (a) Senate Bill No. 269.

21 (b) House Bill No. 5443.

22 (c) House Bill No. 5444.