

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5539

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
(MCL 125.2651 to 125.2672) by adding section 15a.

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

House Bill No. 5539 as amended May 27, 2008

1 AUTHORITY, WITH APPROVAL OF THE DEPARTMENT OF TREASURY UNDER
2 SUBSECTION (3), MAY REQUEST THE LOCAL TAX COLLECTING TREASURER TO
3 RETAIN AND PAY TO THE AUTHORITY TAXES LEVIED WITHIN THE
4 MUNICIPALITY UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL
5 211.901 TO 211.906, TO BE USED FOR THE FOLLOWING:

6 (A) TO REPAY AN ADVANCE MADE NOT LATER THAN 1 YEAR AFTER THE
7 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

8 (B) TO REPAY AN OBLIGATION ISSUED OR INCURRED NOT LATER THAN 1
9 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
10 SECTION.

11 (C) TO PAY OR REIMBURSE A DEVELOPER OR OWNER OF ELIGIBLE
12 PROPERTY OR A MUNICIPALITY THAT CREATED THE AUTHORITY FOR ELIGIBLE
13 ACTIVITIES PURSUANT TO A DEVELOPMENT AND REIMBURSEMENT AGREEMENT
14 ENTERED INTO NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE
15 AMENDATORY ACT THAT ADDED THIS SECTION.

16 (D) TO PAY FOR ELIGIBLE ACTIVITIES IDENTIFIED IN A BROWNFIELD
17 PLAN, OR AN AMENDMENT TO THAT PLAN APPROVED BY BOARD OF THE
18 AUTHORITY NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THE
19 AMENDATORY ACT THAT ADDED THIS SECTION IF THE PLAN CONTAINS ALL OF
20 THE FOLLOWING AND THE WORK PLAN FOR THE CAPTURE OF SCHOOL TAXES HAS
21 BEEN APPROVED WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE
22 AMENDATORY ACT THAT ADDED THIS SECTION:

23 (i) A DETAILED DESCRIPTION OF THE PROJECT.

24 (ii) A STATEMENT OF THE ESTIMATED COST OF THE PROJECT.

25 (iii) THE SPECIFIC LOCATION OF THE PROJECT.

26 (iv) THE NAME OF ANY DEVELOPER OF THE PROJECT.

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

1 AUTHORITY ELIGIBLE UNDER SUBSECTION (1) TO HAVE TAXES LEVIED UNDER
2 THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906,
3 RETAINED AND PAID TO THE AUTHORITY UNDER THIS SECTION, SHALL APPLY
4 FOR APPROVAL WITH THE DEPARTMENT OF TREASURY. THE APPLICATION FOR
5 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 ACT, 1980 PA 450, MCL 125.1812B, AND
8 SECTION 13C OF 1975 PA 197, MCL 125.1663C, EXCEEDS THE DIFFERENCE
9 OF THE TOTAL SCHOOL AID FUND REVENUE FOR THE TAX YEAR MINUS THE
10 ESTIMATED AMOUNT OF REVENUE THE SCHOOL AID FUND WOULD HAVE RECEIVED
11 FOR THE TAX YEAR HAD THE TAX EXEMPTIONS DESCRIBED IN SUBSECTION (1)
12 AND THE EARMARK CREATED BY SECTION 515 OF THE MICHIGAN BUSINESS TAX
13 ACT, 2007 PA 36, MCL 208.1515, NOT TAKEN EFFECT, THE GENERAL FUND
14 SHALL REIMBURSE THE SCHOOL AID FUND THE DIFFERENCE.

15 (12) AS USED IN THIS SECTION:

16 (A) "ADVANCE" MEANS THAT TERM AS DEFINED IN SECTION 1 OF 1975
17 PA 197, MCL 125.1651.

18 (B) "OBLIGATION" MEANS THAT TERM AS DEFINED IN SECTION 1 OF
19 1975 PA 197, MCL 125.1651.