

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5541

A bill to amend 1980 PA 450, entitled
"The tax increment finance authority act,"
(MCL 125.1801 to 125.1830) by adding section 12b.

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

House Bill No. 5541 as amended May 27, 2008

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

5 (A) TO REPAY AN ELIGIBLE ADVANCE.

6 (B) TO REPAY AN ELIGIBLE OBLIGATION.

7 (C) TO REPAY AN OTHER PROTECTED OBLIGATION.

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

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

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

18 (B) THE TAX INCREMENT REVENUES ESTIMATED TO BE RECEIVED BY THE
19 AUTHORITY FOR THAT FISCAL YEAR BASED UPON ACTUAL PROPERTY TAX
20 LEVIES OF ALL TAXING JURISDICTIONS WITHIN THE JURISDICTIONAL AREA
21 OF THE AUTHORITY.

22 (C) THE TAX INCREMENT REVENUES THE AUTHORITY ESTIMATES IT
23 WOULD HAVE RECEIVED FOR THAT FISCAL YEAR IF THE PERSONAL PROPERTY
24 TAX EXEMPTIONS DESCRIBED IN SUBSECTION (1) WERE NOT IN EFFECT.

25 (D) A LIST OF ELIGIBLE OBLIGATIONS, ELIGIBLE ADVANCES, AND
26 OTHER PROTECTED OBLIGATIONS, THE PAYMENTS DUE ON EACH OF THOSE IN
27 THAT FISCAL YEAR, AND THE TOTAL AMOUNT OF ALL THE PAYMENTS DUE ON
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 OF EACH YEAR, BASED ON THE
17 CALCULATIONS UNDER SUBSECTION (5), THE DEPARTMENT OF TREASURY SHALL
18 APPROVE, MODIFY, OR DENY THE APPLICATION FOR APPROVAL TO HAVE TAXES
19 LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901
20 TO 211.906, RETAINED AND PAID TO THE AUTHORITY UNDER THIS SECTION.
21 IF THE APPLICATION FOR APPROVAL CONTAINS THE INFORMATION REQUIRED
22 UNDER SUBSECTION (2) (A) THROUGH (F) AND APPEARS TO BE IN
23 SUBSTANTIAL COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, THEN
24 THE DEPARTMENT OF TREASURY SHALL APPROVE THE APPLICATION. IF THE
25 APPLICATION IS DENIED BY THE DEPARTMENT OF TREASURY, THEN THE
26 DEPARTMENT OF TREASURY SHALL PROVIDE THE OPPORTUNITY FOR A
27 REPRESENTATIVE OF THE AUTHORITY TO DISCUSS THE DENIAL WITHIN 21

1 DAYS AFTER THE DENIAL OCCURS AND SHALL SUSTAIN OR MODIFY ITS
2 DECISION WITHIN 30 DAYS AFTER RECEIVING INFORMATION FROM THE
3 AUTHORITY. IF THE APPLICATION FOR APPROVAL IS APPROVED OR MODIFIED
4 BY THE DEPARTMENT OF TREASURY, THE LOCAL TAX COLLECTING TREASURER
5 SHALL RETAIN AND PAY TO THE AUTHORITY THE AMOUNT DESCRIBED IN
6 SUBSECTION (5) AS APPROVED BY THE DEPARTMENT. IF THE DEPARTMENT OF
7 TREASURY DENIES THE AUTHORITY'S APPLICATION FOR APPROVAL, THE LOCAL
8 TAX COLLECTING TREASURER SHALL NOT RETAIN OR PAY TO THE AUTHORITY
9 THE TAXES LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331,
10 MCL 211.901 TO 211.906. AN APPROVAL BY THE DEPARTMENT DOES NOT
11 PROHIBIT A SUBSEQUENT AUDIT OF TAXES RETAINED IN ACCORDANCE WITH
12 THE PROCEDURES CURRENTLY AUTHORIZED BY LAW.

13 (4) EACH YEAR, THE LEGISLATURE SHALL APPROPRIATE AND
14 DISTRIBUTE AN AMOUNT SUFFICIENT TO PAY EACH AUTHORITY THE
15 FOLLOWING:

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

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

22 (5) SUBJECT TO SUBSECTION (6), THE AGGREGATE AMOUNT UNDER THIS
23 SECTION SHALL BE THE SUM OF THE AMOUNTS DETERMINED UNDER
24 SUBDIVISIONS (A) AND (B) MINUS THE AMOUNT DETERMINED UNDER
25 SUBDIVISION (C), AS FOLLOWS:

26 (A) THE AMOUNT BY WHICH THE TAX INCREMENT REVENUES THE
27 AUTHORITY WOULD HAVE RECEIVED AND RETAINED FOR THE FISCAL YEAR,

1 EXCLUDING TAXES EXEMPT UNDER SECTION 7FF OF THE GENERAL PROPERTY
2 TAX ACT, 1893 PA 206, MCL 211.7FF, IF THE PERSONAL PROPERTY TAX
3 EXEMPTIONS DESCRIBED IN SUBSECTION (1) WERE NOT IN EFFECT, EXCEED
4 THE TAX INCREMENT REVENUES THE AUTHORITY ACTUALLY RECEIVED FOR THE
5 FISCAL YEAR.

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

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

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

15 (7) OBLIGATIONS FOR WHICH DISTRIBUTIONS ARE MADE UNDER THIS
16 SECTION ARE NOT A DEBT OR LIABILITY OF THIS STATE; DO NOT CREATE OR
17 CONSTITUTE AN INDEBTEDNESS, LIABILITY, OR OBLIGATION OF THIS STATE;
18 AND ARE NOT AND DO NOT CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT
19 OF THIS STATE.

20 (8) NOT LATER THAN SEPTEMBER 15 OF EACH YEAR, THE AUTHORITY
21 SHALL PROVIDE A COPY OF THE APPLICATION FOR APPROVAL APPROVED BY
22 THE DEPARTMENT OF TREASURY TO THE LOCAL TAX COLLECTING TREASURER
23 AND PROVIDE THE AMOUNT OF THE TAXES RETAINED AND PAID TO THE
24 AUTHORITY UNDER SUBSECTION (5).

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

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

7 (11) IT IS THE INTENT OF THE LEGISLATURE THAT, TO THE EXTENT
8 THAT THE TOTAL AMOUNT OF TAXES LEVIED UNDER THE STATE EDUCATION TAX
9 ACT, 1993 PA 331, MCL 211.901 TO 211.906, THAT ARE ALLOWED TO BE
10 RETAINED UNDER THIS SECTION AND SECTION 11B OF THE LOCAL
11 DEVELOPMENT FINANCING ACT, 1986 PA 281, MCL 125.2161B, SECTION 15A
12 OF THE BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL
13 125.2665A, AND SECTION 13C OF 1975 PA 197, MCL 125.1663C, EXCEEDS
14 THE DIFFERENCE OF THE TOTAL SCHOOL AID FUND REVENUE FOR THE TAX
15 YEAR MINUS THE ESTIMATED AMOUNT OF REVENUE THE SCHOOL AID FUND
16 WOULD HAVE RECEIVED FOR THE TAX YEAR HAD THE TAX EXEMPTIONS
17 DESCRIBED IN SUBSECTION (1) AND THE EARMARK CREATED BY SECTION 515
18 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1515, NOT
19 TAKEN EFFECT, THE GENERAL FUND SHALL REIMBURSE THE SCHOOL AID FUND
20 THE DIFFERENCE.