

# SENATE BILL No. 1222

November 28, 2018, Introduced by Senator NOFS and referred to the Committee on Economic Development and International Investment.

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending section 15a (MCL 125.2665a), as amended by 2016 PA 471.

**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)~~**1211(1) AND (4)** of the revised school code, 1976 PA  
4 451, MCL 380.1211, section 3 of the state education tax act, 1993  
5 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and  
6 section 9k of the general property tax act, 1893 PA 206, MCL  
7 211.9k, will reduce the allowable school tax capture received in a  
8 fiscal year, then, notwithstanding any other provision of this act,  
9 the 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 before June 5, 2008.

5 (b) To repay an obligation issued or incurred before June 5,  
6 2008.

7 (c) To pay or reimburse a developer or owner of eligible  
8 property or a municipality that created the authority for eligible  
9 activities pursuant to a development and reimbursement agreement  
10 entered into not before June 5, 2008.

11 (d) To pay for eligible activities identified in a brownfield  
12 plan, or an amendment to that plan approved by board of the  
13 authority before September 3, 2008 if the plan contains all of the  
14 following and the work plan for the capture of school taxes has  
15 been approved before June 5, 2009:

16 (i) A detailed description of the project.

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

18 (iii) The specific location of the project.

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

20 (2) Not later than June 15 of each year, or for 2013 only,  
21 before March 28, 2014, an authority eligible under subsection (1)  
22 to have taxes levied under the state education tax act, 1993 PA  
23 331, MCL 211.901 to 211.906, retained and paid to the authority  
24 under this section, shall apply for approval with the department of  
25 treasury. The application for approval shall include the following  
26 information:

27 (a) The property tax millage rates expected to be levied by

1 local school districts within the jurisdictional area of the  
2 authority for school operating purposes for that fiscal year.

3 (b) The tax increment revenues estimated to be received by the  
4 authority for that fiscal year based upon actual property tax  
5 levies of all taxing jurisdictions within the jurisdictional area  
6 of the authority.

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

10 (d) A list of advances, obligations, development and  
11 reimbursement agreements, and projects included in brownfield plans  
12 described in subsection (1), and shall separately identify the  
13 payments due on each of those advances, obligations, development  
14 agreements, and eligible activities in that fiscal year, and the  
15 total amount of all the payments due on all of those in that fiscal  
16 year.

17 (e) The amount of money, other than tax increment revenues,  
18 estimated to be received in that fiscal year by the authority that  
19 is primarily pledged to, or would be used for, the repayment of an  
20 advance, the payment of an obligation, the payment of eligible  
21 activities pursuant to a development and reimbursement agreement,  
22 or the payment of eligible activities identified in a brownfield  
23 plan described in subsection (1). That amount shall not include  
24 excess tax increment revenues of the authority that are permitted  
25 by law to be retained by the authority for purposes that further  
26 the development program. However, that amount shall include money  
27 to be obtained from sources authorized by law, which law is enacted

1 on or after December 1, 1993, for use by the municipality or  
2 authority to finance a development plan.

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

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

1 act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the  
2 department does not prohibit a subsequent audit of taxes retained  
3 in accordance with the procedures currently authorized by law.

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

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

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

12 (5) Subject to subsection (6), the aggregate amount under this  
13 section shall be the sum of the amounts determined under  
14 subdivisions (a) and (b) minus the amount determined under  
15 subdivision (c), as follows:

16 (a) The amount by which the tax increment revenues the  
17 authority would have received and retained for the fiscal year,  
18 excluding taxes exempt under section 7ff of the general property  
19 tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax  
20 exemptions described in subsection (1) were not in effect, exceed  
21 the tax increment revenues the authority actually received for the  
22 fiscal year. **FOR FISCAL YEARS BEGINNING JANUARY 1, 2019 AND**  
23 **THEREAFTER, THE AMOUNT UNDER THIS SUBDIVISION SHALL BE CALCULATED**  
24 **USING THE GREATER OF THE FOLLOWING:**

25 **(i) THE CAPTURED ASSESSED VALUE OF INDUSTRIAL PERSONAL**  
26 **PROPERTY, COMMERCIAL PERSONAL PROPERTY, AND THE PERSONAL PROPERTY**  
27 **COMPONENT OF EXEMPTION CERTIFICATES GRANTED UNDER 1974 PA 198, MCL**

1 207.551 TO 207.572, THAT ARE SITED ON PROPERTY CLASSIFIED AS EITHER  
2 INDUSTRIAL OR COMMERCIAL, FOR THE AUTHORITY'S FISCAL YEAR ENDING IN  
3 THE CURRENT YEAR.

4 (ii) THE 2013 CAPTURED ASSESSED VALUE OF INDUSTRIAL PERSONAL  
5 PROPERTY, COMMERCIAL PERSONAL PROPERTY, AND THE PERSONAL PROPERTY  
6 COMPONENT OF EXEMPTION CERTIFICATES GRANTED UNDER 1974 PA 198, MCL  
7 207.551 TO 207.572, THAT ARE SITED ON PROPERTY CLASSIFIED AS EITHER  
8 INDUSTRIAL OR COMMERCIAL.

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

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

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

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

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

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

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

9           (11) It is the intent of the legislature that, to the extent  
10 that the total amount of taxes levied under the state education tax  
11 act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be  
12 retained under this section and ~~section 11b of the local~~  
13 ~~development financing act, 1986 PA 281, MCL 125.2161b, section 12b~~  
14 ~~of the tax increment finance authority act, 1980 PA 450, MCL~~  
15 ~~125.1812b, and section 13c of 1975 PA 197, MCL 125.1663e, **SECTIONS**~~  
16 **213C, 312B, AND 411B OF THE RECODIFIED TAX INCREMENT FINANCING ACT,**  
17 **2018 PA 57, MCL 125.4213C, 125.4312B, AND 125.4411B,** exceeds the  
18 difference of the total school aid fund revenue for the tax year  
19 minus the estimated amount of revenue the school aid fund would  
20 have received for the tax year had the tax exemptions described in  
21 subsection (1) and the earmark created by section 515 of the  
22 Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken  
23 effect, the general fund shall reimburse the school aid fund the  
24 difference.

25           (12) As used in this section:

26           (a) "Advance" means that term as defined in section ~~1 of 1975~~  
27 ~~PA 197, MCL 125.1651.201 OF THE RECODIFIED TAX INCREMENT FINANCING~~

1 ACT, 2018 PA 57, MCL 125.4201.

2 (b) "Obligation" means that term as defined in section ~~1~~ of

3 ~~1975 PA 197, MCL 125.1651.201~~ OF THE RECODIFIED TAX INCREMENT

4 FINANCING ACT, 2018 PA 57, MCL 125.4201.