

SENATE BILL No. 1005

December 3, 2009, Introduced by Senators NOFS, GARCIA, PATTERSON, CROPSEY, BISHOP and
HARDIMAN and referred to the Committee on Commerce and Tourism.

A bill to amend 1975 PA 197, entitled

"An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,"

by amending section 13c (MCL 125.1663c), as added by 2008 PA 157.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13c. (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,

1 MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section
2 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will
3 reduce the allowable school tax capture received in a fiscal year,
4 then, notwithstanding any other provision of this act, the
5 authority, with approval of the department of treasury under
6 subsection (3), may request the local tax collecting treasurer to
7 retain and pay to the authority taxes levied under the state
8 education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used
9 for the following:

10 (a) To repay an eligible advance.

11 (b) To repay an eligible obligation.

12 (c) To repay an other protected obligation.

13 (2) Not later than June 15, ~~of~~ **2008, NOT LATER THAN AUGUST 31,**
14 **2009**, and not later than June 1 of each subsequent year, an
15 authority eligible under subsection (1) to have taxes levied under
16 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
17 retained and paid to the authority under this section, shall apply
18 for approval with the department of treasury. The application for
19 approval shall include the following information:

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

23 (b) The tax increment revenues estimated to be received by the
24 authority for that fiscal year based upon actual property tax
25 levies of all taxing jurisdictions within the jurisdictional area
26 of the authority.

27 (c) The tax increment revenues the authority estimates it

1 would have received for that fiscal year if the personal property
2 tax exemptions described in subsection (1) were not in effect.

3 (d) A list of eligible obligations, eligible advances, and
4 other protected obligations, the payments due on each of those in
5 that fiscal year, and the total amount of all the payments due on
6 all of those in that fiscal year.

7 (e) The amount of money, other than tax increment revenues,
8 estimated to be received in that fiscal year by the authority that
9 is primarily pledged to, and to be used for, the payment of an
10 eligible obligation, the repayment of an eligible advance, or the
11 payment of an other protected obligation. That amount shall not
12 include excess tax increment revenues of the authority that are
13 permitted by law to be retained by the authority for purposes that
14 further the development program. However, that amount shall include
15 money to be obtained from sources authorized by law, which law is
16 enacted on or after December 1, 1993, for use by the municipality
17 or authority to finance a development plan.

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

22 (3) Not later than August 15, 2008, **NOT LATER THAN DECEMBER**
23 **31, 2009, AND NOT LATER THAN AUGUST 15** of each **SUBSEQUENT** year,
24 based on the calculations under subsection (5), the department of
25 treasury shall approve, modify, or deny the application for
26 approval to have taxes levied under the state education tax act,
27 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the

1 authority under this section. If the application for approval
2 contains the information required under subsection (2)(a) through
3 (f) and appears to be in substantial compliance with the provisions
4 of this section, then the department of treasury shall approve the
5 application. If the application is denied by the department of
6 treasury, then the department of treasury shall provide the
7 opportunity for a representative of the authority to discuss the
8 denial within 21 days after the denial occurs and shall sustain or
9 modify its decision within 30 days after receiving information from
10 the authority. If the application for approval is approved or
11 modified by the department of treasury, the local tax collecting
12 treasurer shall retain and pay to the authority the amount
13 described in subsection (5) as approved by the department. If the
14 department of treasury denies the authority's application for
15 approval, the local tax collecting treasurer shall not retain or
16 pay to the authority the taxes levied under the state education tax
17 act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the
18 department does not prohibit a subsequent audit of taxes retained
19 in accordance with the procedures currently authorized by law.

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

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

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

1 (5) Subject to subsection (6), the aggregate amount under this
2 section shall be the sum of the amounts determined under
3 subdivisions (a) and (b) minus the amount determined under
4 subdivision (c), as follows:

5 (a) The amount by which the tax increment revenues the
6 authority would have received and retained for the fiscal year,
7 excluding taxes exempt under section 7ff of the general property
8 tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax
9 exemptions described in subsection (1) were not in effect, exceed
10 the tax increment revenues the authority actually received for the
11 fiscal year.

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

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

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

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

26 (8) Not later than September 15 of each year, the authority
27 shall provide a copy of the application for approval approved by

1 the department of treasury to the local tax collecting treasurer
2 and provide the amount of the taxes retained and paid to the
3 authority under subsection (5).

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

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

13 (11) It is the intent of the legislature that, to the extent
14 that the total amount of taxes levied under the state education tax
15 act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be
16 retained under this section and section 11b of the local
17 development financing act, 1986 PA 281, MCL 125.2161b, section 15a
18 of the brownfield redevelopment financing act, 1996 PA 381, MCL
19 125.2665a, and section 12b of the tax increment financing act, 1980
20 PA 450, MCL 125.1812b, exceeds the difference of the total school
21 aid fund revenue for the tax year minus the estimated amount of
22 revenue the school aid fund would have received for the tax year
23 had the tax exemptions described in subsection (1) and the earmark
24 created by section 515 of the Michigan business tax act, 2007 PA
25 36, MCL 208.1515, not taken effect, the general fund shall
26 reimburse the school aid fund the difference.