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**BILL ANALYSIS**

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Senate Bill 1061 (Substitute S-1 as reported)  
Senate Bills 1062 through 1065 (as reported without amendment)  
Sponsor: Senator Ken Horn (S.B. 1061)  
Senator Jack Brandenburg (S.B. 1062)  
Senator Jim Stamas (S.B. 1063)  
Senator Peter MacGregor (S.B. 1064)  
Senator Steven Bieda (S.B. 1065)  
Committee: Economic Development and International Investment

**CONTENT**

Senate Bill 1061 (S-1) would amend the Brownfield Redevelopment Financing Act to do the following:

- Allow the board of a brownfield redevelopment authority to implement a transformational brownfield development plan with the approval of the Michigan Strategic Fund (MSF) and the governing body of the municipal that created the authority.
- Require a transformational brownfield plan to be for mixed use development and be expected to generate a specified level of capital investment, based on the population of the municipality.
- Allow a transformational brownfield plan to authorize the use of sales and use tax capture revenue, income tax capture revenue, and tax increment revenue for eligible activities described in the bill.
- Allow a plan to consist of a single development on eligible property or a series of developments on eligible property that were part of a related program of investment, whether or not located on contiguous parcels, and allow the plan to be amended to apply to additional parcels of eligible property.
- Allow the brownfield authority and the MSF to reimburse advances made by a municipality, a land bank fast track authority, or any other person or entity for costs of eligible activities included within a transformational brownfield plan using sales and use tax capture revenue or income tax capture revenue attributable to that plan.
- Allow eligible activities conducted on eligible property before approval of the transformational brownfield plan to be reimbursed from sales and use tax capture revenue and income tax capture revenue under certain circumstances.
- Provide for income tax exemptions under the Michigan Renaissance Zone Act to cease if a transformational brownfield development plan overlapped with a renaissance zone, upon the request of the owner or developer, the local government unit, the MSF, and a city, if reimbursement requirements were met.
- Prescribe requirements governing the determination of whether to approve a plan, including financial analyses by the MSF.
- Allow a municipality to approve not more than one transformational brownfield plan and allow the MSF to approve not more than five transformational brownfield plans in a calendar year, except under certain circumstances.
- Require the State Treasurer to deposit annually from the General Fund into the State Brownfield Redevelopment Fund an amount equal to the sales and use tax capture revenue and income tax capture revenue due to be transmitted under all transformational brownfield plans to each applicable authority.

Senate Bill 1062 would amend the Income Tax Act to provide that, from collected income tax revenue, an amount equal to the income tax capture revenue attributable to transformational brownfield plans adopted under the Brownfield Redevelopment Financing Act would have to be deposited each State fiscal year into the State Brownfield Redevelopment Fund.

Senate Bill 1063 would amend the General Sales Tax Act to require an amount equal to the sales tax portion of the sales and use tax capture revenue attributable to transformational brownfield plans to be deposited each State fiscal year into the State Brownfield Redevelopment Fund.

Senate Bill 1064 would amend the Use Tax Act to provide that, from the money received and collected under the Act for the State share, an amount equal to the use tax portion of the sales and use tax capture revenue attributable to transformational brownfield plans would have to be deposited each State fiscal year into the State Brownfield Redevelopment Fund.

Senate Bill 1065 would amend the Michigan Renaissance Zone Act to state that, where a portion of a renaissance zone was included within a transformational brownfield plan, upon the request of the property owner and the local government unit, and the approval of the Michigan Strategic Fund and the city levying an income tax within the zone, exemptions from the Income Tax Act and the City Income Tax Act would not apply within that portion of the renaissance zone.

Senate Bills 1062, 1063, and 1064 are tie-barred to Senate Bill 1061.

MCL 125.2652 et al. (S.B. 1061)  
Proposed MCL 206.51e (S.B. 1062)  
MCL 205.75 (S.B. 1063)  
205.111 (S.B. 1064)  
125.2689 (S.B. 1065)

Legislative Analyst: Drew Krogulecki

### **FISCAL IMPACT**

The bills would reduce State General Fund revenue by an unknown, but likely significant amount, and would have an unknown impact on local revenue. The amount of the State revenue reduction would depend on the characteristics of the developments, the terms of the transformational brownfield plans, and the number of plans approved. The bills would increase the administrative costs of the Department of Treasury and the Michigan Strategic Fund. Local revenue would be affected by the terms of the transformational brownfield plans, including the degree to which a plan reimbursed a local unit for brownfield administrative expense and project advances and the possible use of tax increment revenue for additional purposes pursuant to the bill including construction, restoration, and renovation of buildings. These impacts are discussed further below.

#### Senate Bill 1061 (S-1)

General Fund Impact. The bill would reduce State General Fund revenue by an unknown, but likely significant amount. The amount of the revenue reduction would depend on the characteristics of the developments, the number of approved transformational brownfield plans (TBPs), the terms of a TBP, and the interpretation of the definition of "sales and use tax capture revenues", which would be based on increases in "...sales and use tax revenue collected from within or attributable to transactions within the eligible property..." subject to a TBP. How broadly revenue was considered to be "attributable to" a TBP would be subject to interpretation.

The specific terms of a TBP would be important to any fiscal estimates. Each TBP would have to specify the amount of sales, use, and income taxes to be "used" under the plan, which could include all of the sales and use tax capture and up to 50% of the income tax capture,

or more in some cases involving renaissance zones. The TBP also would have to specify the duration of the tax capture and the amount of the tax capture that would be used by the TBP each year. The amounts returned to the authority, owner, or developer could vary by year, but the duration of the payments would be limited to 30 years. The terms of the TBP and the eligible properties would be subject to amendment during the term of the TBP.

The amount of development that would occur under a TBP could vary greatly. Designation of a TBP for a municipality that is not a county would require certain levels of "expected" investment based on population, and the MSF could waive these expected investments in some cases. The bill does not include any penalty or "clawback" of payments to an authority, owner, or developer under a TBP if the expected level of investment did not occur. The bill also does not specify an expected level of investment for a TBP undertaken by a county. A TBP could allow sales, use, and income tax capture related to developments that had already been undertaken. For development not yet undertaken but made possible by the bill, the State and local government would receive increased revenue after the expiration of the transformational brownfield plan. The TBP also could incorporate tax increment financing with the capture of ad valorem and specific taxes for eligible purposes. The expansion of the allowable uses of tax increment revenue in a TBP to include construction, alteration, renovation or improvements of buildings would tend to increase the amount of taxes captured by the TBP. Current brownfield plans have a more limited use of funds, typically for demolition, site preparation, infrastructure improvements, and lead and asbestos abatement.

Department of Treasury. The bill would have an indeterminate, but extensive administrative cost for the Department of Treasury. Currently, the Department does not track the geographic origin of sales and use tax revenue. Implementing the sales and use tax capture and payments required by the bill would require the development of the capability to identify the source of sales and use tax revenue by location. This would be an issue for all businesses that collect sales and use taxes in multiple locations and multiple TBPs. The Department would need to develop a method for calculating sales and use tax revenue from each TBP individually. The interpretation of the phrase "attributable to" would affect the development and results of that algorithm. The Department also would have additional administrative responsibilities under the bill, including the deposit of an amount of General Fund revenue equal to the captured tax revenue due to be transmitted under a TBP into the State Brownfield Redevelopment Fund and accounting for those funds by each TBP, brownfield authority, or the owner or the developer within 30 days of deposit of the revenue into the Brownfield Redevelopment Fund. The Department also would have to meet the current reporting requirement. All of these changes would likely involve extensive administrative costs in the form of additional FTEs and information technology (IT) services. The bill would not provide any additional revenue to cover the associated costs.

Department of Talent and Economic Development. The bill would result in additional administrative costs to the Michigan Strategic Fund, within the Department of Talent and Economic Development. These costs would be associated with additional responsibilities under the bill, including the approval, approval with modifications, or rejection of TBP within 90 days of approval by the governing body of the authorizing municipality. The Michigan Strategic Fund also would be responsible for distributing captured revenue to an authority or owner or developer of eligible property. These changes would likely require additional FTEs and some IT services. The bill would not provide any additional revenue to cover the associated administrative costs.

Local Government Impact. While the bill does not include city income tax revenue in the definition of "income tax capture revenue", a city with a city income tax and a TBP would experience an impact on local unit revenue. To the extent that Senate Bills 1061 (S-1) and 1065 provide for ending renaissance zone exemptions from a city income tax, Senate Bill 1061 (S-1) also would result in the city's forgoing revenue it would otherwise have received (in the event of ending a renaissance zone exemption from city income tax) by directing that revenue according to the terms of a TBP. Similarly, to the extent the bill would expand the

purposes for which revenue may be captured under a tax increment plan, it would reduce local unit revenue by an unknown, and potentially significant amount that would depend on the number of TBPs and their specific characteristics.

A brownfield authority or municipality with an approved transformational brownfield plan could receive increased revenue, if the terms of the TBP allowed for a portion of the captured sales, use, and income tax revenue to be used for administrative and operating expenses associated with the TBP, including the repayment of the cost of developing the original TBP or the reimbursement of a municipality for advances made for a TBP project which could include interest. Reimbursement of advances, possibly with interest, also would be allowed to a land bank fast track authority. Advances also could be repaid with interest to any other person or entity for costs of eligible activities within a TBP. This would reduce funds available for new projects.

Senate Bills 1062, 1063, and 1064 would reduce General Fund revenue by an unknown and potentially significant amount. Factors that would affect the exact amount of any revenue reduction are discussed below.

Under the bills, captured revenues would be deposited into the State Brownfield Redevelopment Fund and distributed to either: 1) a brownfield authority, which could use the revenue to finance public improvements, environmental remediation activities and/or, as a result of Senate Bill 1061 (S-1), construction, renovation or improvement of buildings owned by an owner or developer; or 2) the owner or developer of an eligible property. Unlike tax credits distributed to a taxpayer to subsidize an activity, which are not subject to appropriation, the bills would apparently authorize direct expenditure payments to an owner or developer of an eligible property without an appropriation. Furthermore, the captured revenue and distributed payments would not be subject to any legislated maximum level other than equaling the sum of all costs permitted to be funded under the bills. Because those costs would not be limited, and could include costs incurred before the approval of a transformational brownfield plan, the bills would effectively impose no limit on the amount of revenue captured. In the case of a transformational brownfield plan located in a non-county municipality with a population of 600,000 or more, over time the captures could exceed \$500.0 million.

Senate Bill 1062 would reduce individual income tax revenue to the General Fund by an unknown and potentially significant amount. The exact amount would depend on both the economic activity affected by the bill's provisions and the yet-to-be-determined methodology the Department of Treasury developed to calculate income tax capture revenue, as well as the interpretation of terms left undefined in the bill and in Senate Bill 1061 (S-1).

While Senate Bill 1061 (S-1) would define "income tax capture revenues", when the capture amount is specified to be equal to the amount for one tax year, it is unclear whether the language means that a single tax year would be subject to capture, or whether it refers to the full tax year of capture for each tax year. The definition also is unclear as to whether the income tax revenue under the calculation would be income tax liability before or after credits, particularly the Homestead Property Tax Credit. Assuming that a full tax year was captured each year, given that the individual income tax liability after credits for tax year 2013 averaged \$1,500, the bill would reduce General Fund revenue by \$1,500 for each resident domiciled within eligible property. As a result, if 10,000 additional returns were from domiciles within eligible property, the bill would reduce General Fund revenue by \$15.0 million. To the extent that incomes of existing residents affected by the bill increased as a result of the transformational brownfield plans, the loss of General Fund revenue would be greater. Similarly, if 30,000 additional returns were affected, the reduction in General Fund revenue under Senate Bill 1062 would total at least \$45.0 million.

Senate Bills 1063 and 1064 would reduce sales and use tax revenue to the General Fund by an unknown and potentially significant amount. The exact amount would depend on both the

economic activity affected by the bills' provisions and the yet-to-be-determined methodology the Department of Treasury developed to calculate sales and use tax capture revenues, as well as the interpretation of terms left undefined in the bills and in Senate Bill 1061 (S-1).

While Senate Bill 1061 (S-1) would define "sales and use tax capture revenues", the bill is unclear whether "sales and use tax revenue attributable to transactions within the eligible property" includes sales and use taxes paid (in addition to those collected) or if it includes "spinoff" transactions related to the transformational brownfield plan, such as transactions made elsewhere in Michigan (or the United States) by residents domiciled within the eligible property, or sales and use tax revenues generated by employees working for a business located within eligible property when they make purchases at a location not within the eligible property.

Adjusted gross income reported in tax year 2013 averaged \$63,550. Assuming 40% of that income is spent on items subject to sales or use taxes, if 10,000 additional families had expenditures subject to capture, the bill would reduce General Fund revenue by \$15.3 million. Similarly, if 30,000 additional returns were affected, the reduction in General Fund revenue would total at least \$45.9 million.

In addition to the revenue loss attributable to individuals, the bills would apparently capture sales and use taxes paid or collected by businesses within eligible property. If 20% of the "expected" levels of capital investment were subject to sales and use taxes, then the revenue loss just from an initial capital investment could total between \$300,000 and \$6.0 million. If one eligible property from each eligibility level were created, the total reduction in General Fund revenue from the initial investment would equal \$9.0 million. To the extent that a higher percentage of the investment was subject to sale and use taxes, or more eligible properties were created, the reduction in General Fund revenue would be greater.

Senate Bill 1065 would allow the levy of State and city income tax in a renaissance zone that was in part within a TBP with MSF and local approval. Affected taxpayers within the renaissance zone would no longer be exempt from State and city income tax. Instead, they would pay the State and city income tax that would be captured for distribution under the terms of the TBP to the authority, owner, or developer. This income tax revenue would be foregone by the State and city levying a city income tax, which otherwise would receive increased revenue if the exemption under the renaissance zone was terminated.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.