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BILL ANALYSIS



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Senate Bill 482 (as enrolled)

PUBLIC ACT 101 of 2005

Sponsor: Senator Jason E. Allen

Senate Committee: Economic Development, Small Business and Regulatory Reform

House Committee: Commerce

Date Completed: 9-22-06

CONTENT

The bill amended the Brownfield Redevelopment Financing Act to do the following:

- **Allow a brownfield authority to reimburse certain advances "with or without interest".**
- **Include in "eligible activities" particular activities performed on a qualified facility (a landfill facility area meeting certain criteria).**
- **Allow a taxing jurisdiction to exempt its taxes from capture if a brownfield plan contains a qualified facility.**
- **Provide that a brownfield authority may not use taxes levied for school operating purposes, for a qualified facility.**

The bill took effect on July 22, 2005.

Reimbursement of Advances

The Act allows a brownfield authority to reimburse advances made by a municipality under Section 7(3) (which allows a municipality to transfer its funds to an authority or another person on behalf of the authority in anticipation of repayment by the authority), a land bank fast track authority, or any other person or entity for costs of eligible activities, with any source or revenue available for use of the brownfield authority under the Act. The bill allows a brownfield authority to reimburse these advances "with or without interest".

Under the Act, all taxes levied for school operating purposes that are not used for eligible activities consistent with a work plan

approved by the Department of Labor and Economic Growth or the Michigan Economic Growth Authority and that are not deposited in a local site remediation revolving fund must be distributed proportionately between the local school district and the School Aid Fund. Under the bill, this also applies to taxes levied for school operating purposes that are not used for the payment of interest on advances.

Qualified Facility

The Act allows municipalities to establish brownfield redevelopment zones and brownfield redevelopment zone authorities, which may implement brownfield plans for the redevelopment of commercial or industrial property. The Act specifies financing sources for authority activities, including the capture of tax increment revenue (that is, revenue from the incremental increase in property values within a zone). The Act allows the capture of both local property taxes and taxes levied for school operating purposes. The revenue may be used to pay the costs of eligible activities on eligible property within a zone.

Eligible activities include baseline environmental assessment activities; due care activities; additional response activities; specific additional activities on eligible property that is or was used for commercial, industrial, or residential purposes that is in a qualified local governmental unit, or that is owned or under the control of a land bank fast track authority, and is a facility (a site of a hazardous substance release), functionally

obsolete, or blighted; and relocation of public buildings or operations for economic development purposes with prior approval of the Michigan Economic Development Authority.

Under the bill, for eligible activities on eligible property that is a qualified facility that is not located in a qualified local governmental unit and that is a facility, functionally obsolete, or blighted, eligible activities include the following additional activities:

- Infrastructure improvements that directly benefit eligible property.
- Demolition of structures that is not response activity under Section 20101 of the Natural Resources and Environmental Protection Act (NREPA).
- Lead or asbestos abatement.
- Site preparation that is not response activity under Section 20101 of NREPA.

The bill defines "qualified facility" as a landfill facility area of 140 or more contiguous acres that is located in a city and that contains a landfill, a material recycling facility, and an asphalt plant that are no longer in operation.

(Section 20101 of NREPA defines "response activity" as evaluation, interim response activity, remedial action, demolition, or the taking of other actions necessary to protect the public health, safety, or welfare, or the environment or the natural resources. Response activity also includes health assessments or health effect studies carried out under the supervision, or with the approval, of the Department of Community Health and enforcement actions related to any response activity.)

Under the bill, if the board of a brownfield redevelopment authority implements or modifies a brownfield plan that contains a qualified facility, the governing body of the municipality that created the authority must mail notice of that implementation or modification to each taxing jurisdiction that levies ad valorem property taxes in the municipality. Within 60 days after receiving the notice, the governing body of a taxing jurisdiction levying ad valorem property taxes that otherwise would be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the

municipality in which the qualified facility is located. The resolution takes effect when filed and remains effective until a copy of a resolution rescinding that resolution is filed with the clerk.

The bill prohibits an authority from using taxes levied for school operating purposes captured from eligible property for eligible activities for a qualified facility.

MCL 125.2652 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will reduce local unit revenue by an unknown amount. The bill increases the amount of tax that may be captured by expanding the types of property and activities for which costs may be repaid by captured taxes. The impact of the change will depend upon the individual properties, and any secondary effects the bill might have on the number of brownfield projects undertaken.

Fiscal Analyst: David Zin

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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.