

**SUBSTITUTE FOR
HOUSE BILL NO. 5471**

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending sections 2, 13, and 15 (MCL 125.2652, 125.2663, and
125.2665), as amended by 2005 PA 101.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Additional response activities" means response activities
3 identified as part of a brownfield plan that are in addition to
4 baseline environmental assessment activities and due care
5 activities for an eligible property.

6 (b) "Authority" means a brownfield redevelopment authority
7 created under this act.

8 (c) "Baseline environmental assessment" means that term as

1 defined in section 20101 of the natural resources and environmental
2 protection act, 1994 PA 451, MCL 324.20101.

3 (d) "Baseline environmental assessment activities" means those
4 response activities identified as part of a brownfield plan that
5 are necessary to complete a baseline environmental assessment for
6 an eligible property in the brownfield plan.

7 (e) "Blighted" means property that meets any of the following
8 criteria:

9 (i) Has been declared a public nuisance in accordance with a
10 local housing, building, plumbing, fire, or other related code or
11 ordinance.

12 (ii) Is an attractive nuisance to children because of physical
13 condition, use, or occupancy.

14 (iii) Is a fire hazard or is otherwise dangerous to the safety
15 of persons or property.

16 (iv) Has had the utilities, plumbing, heating, or sewerage
17 permanently disconnected, destroyed, removed, or rendered
18 ineffective so that the property is unfit for its intended use.

19 (v) Is tax reverted property owned by a qualified local
20 governmental unit, by a county, or by this state. The sale, lease,
21 or transfer of tax reverted property by a qualified local
22 governmental unit, county, or this state after the property's
23 inclusion in a brownfield plan shall not result in the loss to the
24 property of the status as blighted property for purposes of this
25 act.

26 (vi) Is property owned or under the control of a land bank fast
27 track authority under the land bank fast track act, whether or not

1 located within a qualified local governmental unit. Property
2 included within a brownfield plan prior to the date it meets the
3 requirements of this subdivision to be eligible property shall be
4 considered to become eligible property as of the date the property
5 is determined to have been or becomes qualified as, or is combined
6 with, other eligible property. The sale, lease, or transfer of the
7 property by a land bank fast track authority after the property's
8 inclusion in a brownfield plan shall not result in the loss to the
9 property of the status as blighted property for purposes of this
10 act.

11 (f) "Board" means the governing body of an authority.

12 (g) "Brownfield plan" means a plan that meets the requirements
13 of section 13 and is adopted under section 14.

14 (h) "Captured taxable value" means the amount in 1 year by
15 which the current taxable value of an eligible property subject to
16 a brownfield plan, including the taxable value or assessed value,
17 as appropriate, of the property for which specific taxes are paid
18 in lieu of property taxes, exceeds the initial taxable value of
19 that eligible property. The state tax commission shall prescribe
20 the method for calculating captured taxable value.

21 (i) "Chief executive officer" means the mayor of a city, the
22 village manager of a village, the township supervisor of a
23 township, or the county executive of a county or, if the county
24 does not have an elected county executive, the chairperson of the
25 county board of commissioners.

26 (j) "Department" means the department of environmental
27 quality.

1 (k) "Due care activities" means those response activities
2 identified as part of a brownfield plan that are necessary to allow
3 the owner or operator of an eligible property in the plan to comply
4 with the requirements of section 20107a of the natural resources
5 and environmental protection act, 1994 PA 451, MCL 324.20107a.

6 (l) **"ECONOMIC OPPORTUNITY ZONE" MEANS 1 OR MORE PARCELS OF**
7 **PROPERTY THAT MEET ALL OF THE FOLLOWING:**

8 (i) **THAT TOGETHER ARE 40 OR MORE ACRES IN SIZE.**

9 (ii) **THAT CONTAIN A MANUFACTURING FACILITY THAT CONSISTS OF**
10 **500,000 OR MORE SQUARE FEET.**

11 (iii) **THAT ARE LOCATED IN A MUNICIPALITY THAT HAS A POPULATION**
12 **OF 30,000 OR LESS AND THAT IS CONTIGUOUS TO A QUALIFIED LOCAL**
13 **GOVERNMENTAL UNIT.**

14 (m) ~~(l)~~ "Eligible activities" or "eligible activity" does not
15 include activities related to multisource commercial hazardous
16 waste disposal wells as that term is defined in section 62506a of
17 the natural resources and environmental protection act, 1994 PA
18 451, MCL 324.62506a, but means 1 or more of the following:

19 (i) Baseline environmental assessment activities.

20 (ii) Due care activities.

21 (iii) Additional response activities.

22 (iv) For eligible activities on eligible property that was used
23 or is currently used for commercial, industrial, or residential
24 purposes that is in a qualified local governmental unit, ~~or~~ that
25 is owned or under the control of a land bank fast track authority,
26 **OR THAT IS LOCATED IN AN ECONOMIC OPPORTUNITY ZONE**, and is a
27 facility, functionally obsolete, or blighted, and except for

1 purposes of section 38d of the single business tax act, 1975 PA
2 228, MCL 208.38d, the following additional activities:

3 (A) Infrastructure improvements that directly benefit eligible
4 property.

5 (B) Demolition of structures that is not response activity
6 under section 20101 of the natural resources and environmental
7 protection act, 1994 PA 451, MCL 324.20101.

8 (C) Lead or asbestos abatement.

9 (D) Site preparation that is not response activity under
10 section 20101 of the natural resources and environmental protection
11 act, 1994 PA 451, MCL 324.20101.

12 (E) Assistance to a land bank fast track authority in clearing
13 or quieting title to, or selling or otherwise conveying, property
14 owned or under the control of a land bank fast track authority.

15 (v) Relocation of public buildings or operations for economic
16 development purposes with prior approval of the Michigan economic
17 development authority.

18 (vi) For eligible activities on eligible property that is a
19 qualified facility that is not located in a qualified local
20 governmental unit and that is a facility, functionally obsolete, or
21 blighted, the following additional activities:

22 (A) Infrastructure improvements that directly benefit eligible
23 property.

24 (B) Demolition of structures that is not response activity
25 under section 20101 of the natural resources and environmental
26 protection act, 1994 PA 451, MCL 324.20101.

27 (C) Lead or asbestos abatement.

1 (D) Site preparation that is not response activity under
2 section 20101 of the natural resources and environmental protection
3 act, 1994 PA 451, MCL 324.20101.

4 (N) ~~(m)~~ "Eligible property" means property for which
5 eligible activities are identified under a brownfield plan that was
6 used or is currently used for commercial, industrial, or
7 residential purposes that is either in a qualified local
8 governmental unit and is a facility, functionally obsolete, or
9 blighted or is not in a qualified local governmental unit and is a
10 facility, and includes parcels that are adjacent or contiguous to
11 that property if the development of the adjacent and contiguous
12 parcels is estimated to increase the captured taxable value of that
13 property or tax reverted property owned or under the control of a
14 land bank fast track authority. Eligible property includes, to the
15 extent included in the brownfield plan, personal property located
16 on the property. Eligible property does not include qualified
17 agricultural property exempt under section 7ee of the general
18 property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by
19 a local school district for school operating purposes to the extent
20 provided under section 1211 of the revised school code, 1976 PA
21 451, MCL 380.1211.

22 (O) ~~(n)~~ "Facility" means that term as defined in section
23 20101 of the natural resources and environmental protection act,
24 1994 PA 451, MCL 324.20101.

25 (P) ~~(o)~~ "Fiscal year" means the fiscal year of the
26 authority.

27 (Q) ~~(p)~~ "Functionally obsolete" means that the property is

1 unable to be used to adequately perform the function for which it
2 was intended due to a substantial loss in value resulting from
3 factors such as overcapacity, changes in technology, deficiencies
4 or superadequacies in design, or other similar factors that affect
5 the property itself or the property's relationship with other
6 surrounding property.

7 **(R)** ~~—(q)—~~ "Governing body" means the elected body having
8 legislative powers of a municipality creating an authority under
9 this act.

10 **(S)** ~~—(r)—~~ "Infrastructure improvements" means a street, road,
11 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
12 sewage treatment plant, property designed to reduce, eliminate, or
13 prevent the spread of identified soil or groundwater contamination,
14 drainage system, waterway, waterline, water storage facility, rail
15 line, utility line or pipeline, or other similar or related
16 structure or improvement, together with necessary easements for the
17 structure or improvement, owned or used by a public agency or
18 functionally connected to similar or supporting property owned or
19 used by a public agency, or designed and dedicated to use by, for
20 the benefit of, or for the protection of the health, welfare, or
21 safety of the public generally, whether or not used by a single
22 business entity, provided that any road, street, or bridge shall be
23 continuously open to public access and that other property shall be
24 located in public easements or rights-of-way and sized to
25 accommodate reasonably foreseeable development of eligible property
26 in adjoining areas.

27 **(T)** ~~—(s)—~~ "Initial taxable value" means the taxable value of

1 an eligible property identified in and subject to a brownfield plan
2 at the time the resolution adding that eligible property in the
3 brownfield plan is adopted, as shown either by the most recent
4 assessment roll for which equalization has been completed at the
5 time the resolution is adopted or, if provided by the brownfield
6 plan, by the next assessment roll for which equalization will be
7 completed following the date the resolution adding that eligible
8 property in the brownfield plan is adopted. Property exempt from
9 taxation at the time the initial taxable value is determined shall
10 be included with the initial taxable value of zero. Property for
11 which a specific tax is paid in lieu of property tax shall not be
12 considered exempt from taxation. The state tax commission shall
13 prescribe the method for calculating the initial taxable value of
14 property for which a specific tax was paid in lieu of property tax.

15 (U) ~~-(t)-~~ "Land bank fast track authority" means an authority
16 created under the land bank fast track act, **2003 PA 258, MCL**
17 **124.751 TO 124.774.**

18 (V) ~~-(u)-~~ "Local taxes" means all taxes levied other than
19 taxes levied for school operating purposes.

20 (W) ~~-(v)-~~ "Municipality" means all of the following:

21 (i) A city.

22 (ii) A village.

23 (iii) A township in those areas of the township that are outside
24 of a village.

25 (iv) A township in those areas of the township that are in a
26 village upon the concurrence by resolution of the village in which
27 the zone would be located.

1 (v) A county.

2 **(X)** ~~—(w)—~~ "Owned or under the control of" means that a land
3 bank fast track authority has 1 or more of the following:

4 (i) An ownership interest in the property.

5 (ii) A tax lien on the property.

6 (iii) A tax deed to the property.

7 (iv) A contract with this state or a political subdivision of
8 this state to enforce a lien on the property.

9 (v) A right to collect delinquent taxes, penalties, or
10 interest on the property.

11 (vi) The ability to exercise its authority over the property.

12 **(Y)** ~~—(x)—~~ "Qualified facility" means a landfill facility area
13 of 140 or more contiguous acres that is located in a city and that
14 contains a landfill, a material recycling facility, and an asphalt
15 plant that are no longer in operation.

16 **(Z)** ~~—(y)—~~ "Qualified local governmental unit" means that term
17 as defined in the obsolete property rehabilitation act, 2000 PA
18 146, MCL 125.2781 to 125.2797.

19 **(AA)** ~~—(z)—~~ "Qualified taxpayer" means that term as defined in
20 sections 38d and 38g of the single business tax act, 1975 PA 228,
21 MCL 208.38d and 208.38g.

22 **(BB)** ~~—(aa)—~~ "Remedial action plan" means a plan that meets
23 both of the following requirements:

24 (i) Is a remedial action plan as that term is defined in
25 section 20101 of the natural resources and environmental protection
26 act, 1994 PA 451, MCL 324.20101.

27 (ii) Describes each individual activity to be conducted to

1 complete eligible activities and the associated costs of each
2 individual activity.

3 (CC) ~~—(bb)—~~ "Response activity" means that term as defined in
4 section 20101 of the natural resources and environmental protection
5 act, 1994 PA 451, MCL 324.20101.

6 (DD) ~~—(ee)—~~ "Specific taxes" means a tax levied under 1974 PA
7 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978
8 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA
9 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182;
10 the technology park development act, 1984 PA 385, MCL 207.701 to
11 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
12 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
13 147, MCL 207.771 to 207.786; or that portion of the tax levied
14 under the tax reverted ~~property~~ clean title act, **2003 PA 260, MCL**
15 **211.1021 TO 211.1026**, that is not required to be distributed to a
16 land bank fast track authority.

17 (EE) ~~—(dd)—~~ "Tax increment revenues" means the amount of ad
18 valorem property taxes and specific taxes attributable to the
19 application of the levy of all taxing jurisdictions upon the
20 captured taxable value of each parcel of eligible property subject
21 to a brownfield plan and personal property located on that
22 property. Tax increment revenues exclude ad valorem property taxes
23 specifically levied for the payment of principal of and interest on
24 either obligations approved by the electors or obligations pledging
25 the unlimited taxing power of the local governmental unit, and
26 specific taxes attributable to those ad valorem property taxes. Tax
27 increment revenues attributable to eligible property also exclude

1 the amount of ad valorem property taxes or specific taxes captured
2 by a downtown development authority, tax increment finance
3 authority, or local development finance authority if those taxes
4 were captured by these other authorities on the date that eligible
5 property became subject to a brownfield plan under this act.

6 **(FF)** ~~—(ee)—~~ "Taxable value" means the value determined under
7 section 27a of the general property tax act, 1893 PA 206, MCL
8 211.27a.

9 **(GG)** ~~—(ff)—~~ "Taxes levied for school operating purposes" means
10 all of the following:

11 (i) The taxes levied by a local school district for operating
12 purposes.

13 (ii) The taxes levied under the state education tax act, 1993
14 PA 331, MCL 211.901 to 211.906.

15 (iii) That portion of specific taxes attributable to taxes
16 described under subparagraphs (i) and (ii).

17 **(HH)** ~~—(gg)—~~ "Work plan" means a plan that describes each
18 individual activity to be conducted to complete eligible activities
19 and the associated costs of each individual activity.

20 **(II)** ~~—(hh)—~~ "Zone" means, for an authority established before
21 June 6, 2000, a brownfield redevelopment zone designated under this
22 act.

23 Sec. 13. (1) Subject to section 15, the board may implement a
24 brownfield plan. The brownfield plan may apply to 1 or more parcels
25 of eligible property whether or not those parcels of eligible
26 property are contiguous and may be amended to apply to additional
27 parcels of eligible property. Except as otherwise authorized by

1 this act, if more than 1 parcel of eligible property is included
2 within the plan, the tax increment revenues under the plan shall be
3 determined individually for each parcel of eligible property. Each
4 plan or an amendment to a plan shall be approved by the governing
5 body of the municipality and shall contain all of the following:

6 (a) A description of the costs of the plan intended to be paid
7 for with the tax increment revenues or, for a plan for eligible
8 properties qualified on the basis that the property is owned or
9 under the control of a land bank fast track authority, a listing of
10 all eligible activities that may be conducted for 1 or more of the
11 eligible properties subject to the plan.

12 (b) A brief summary of the eligible activities that are
13 proposed for each eligible property or, for a plan for eligible
14 properties qualified on the basis that the property is owned or
15 under the control of a land bank fast track authority, a brief
16 summary of eligible activities conducted for 1 or more of the
17 eligible properties subject to the plan.

18 (c) An estimate of the captured taxable value and tax
19 increment revenues for each year of the plan from each parcel of
20 eligible property, or from all eligible properties qualified on the
21 basis that the property is owned or under the control of a land
22 bank fast track authority, and in the aggregate. The plan may
23 provide for the use of part or all of the captured taxable value,
24 including deposits in the local site remediation revolving fund,
25 but the portion intended to be used shall be clearly stated in the
26 plan. The plan shall not provide either for an exclusion from
27 captured taxable value of a portion of the captured taxable value

1 or for an exclusion of the tax levy of 1 or more taxing
2 jurisdictions unless the tax levy is excluded from tax increment
3 revenues in section ~~2(ee)~~ **2 (DD)**, or unless the tax levy is
4 excluded from capture under section 15.

5 (d) The method by which the costs of the plan will be
6 financed, including a description of any advances made or
7 anticipated to be made for the costs of the plan from the
8 municipality.

9 (e) The maximum amount of note or bonded indebtedness to be
10 incurred, if any.

11 (f) The duration of the brownfield plan, which shall not
12 exceed the lesser of the period authorized under subsections (4)
13 and (5) or 30 years.

14 (g) An estimate of the impact of tax increment financing on
15 the revenues of all taxing jurisdictions in which the eligible
16 property is located.

17 (h) A legal description of each parcel of eligible property to
18 which the plan applies, a map showing the location and dimensions
19 of each eligible property, a statement of the characteristics that
20 qualify the property as eligible property, and a statement of
21 whether personal property is included as part of the eligible
22 property. If the project is on property that is functionally
23 obsolete, the taxpayer shall include, with the application, an
24 affidavit signed by a level 3 or level 4 assessor, that states that
25 it is the assessor's expert opinion that the property is
26 functionally obsolete and the underlying basis for that opinion.

27 (i) Estimates of the number of persons residing on each

1 eligible property to which the plan applies and the number of
2 families and individuals to be displaced. If occupied residences
3 are designated for acquisition and clearance by the authority, the
4 plan shall include a demographic survey of the persons to be
5 displaced, a statistical description of the housing supply in the
6 community, including the number of private and public units in
7 existence or under construction, the condition of those in
8 existence, the number of owner-occupied and renter-occupied units,
9 the annual rate of turnover of the various types of housing and the
10 range of rents and sale prices, an estimate of the total demand for
11 housing in the community, and the estimated capacity of private and
12 public housing available to displaced families and individuals.

13 (j) A plan for establishing priority for the relocation of
14 persons displaced by implementation of the plan.

15 (k) Provision for the costs of relocating persons displaced by
16 implementation of the plan, and financial assistance and
17 reimbursement of expenses, including litigation expenses and
18 expenses incident to the transfer of title, in accordance with the
19 standards and provisions of the uniform relocation assistance and
20 real property acquisition policies act of 1970, Public Law 91-646.

21 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
22 213.332.

23 (m) A description of proposed use of the local site
24 remediation revolving fund.

25 (n) Other material that the authority or governing body
26 considers pertinent.

27 (2) The percentage of all taxes levied on a parcel of eligible

1 property for school operating expenses that is captured and used
2 under a brownfield plan and all tax increment finance plans under
3 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance
4 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local
5 development financing act, 1986 PA 281, MCL 125.2151 to 125.2174,
6 shall not be greater than the combination of the plans' percentage
7 capture and use of all local taxes levied for purposes other than
8 for the payment of principal of and interest on either obligations
9 approved by the electors or obligations pledging the unlimited
10 taxing power of the local unit of government. This subsection shall
11 apply only when taxes levied for school operating purposes are
12 subject to capture under section 15.

13 (3) Except as provided in this subsection and subsections (5),
14 (15), and (16), tax increment revenues related to a brownfield plan
15 shall be used only for costs of eligible activities attributable to
16 the eligible property, the captured taxable value of which produces
17 the tax increment revenues, including the cost of principal of and
18 interest on any obligation issued by the authority to pay the costs
19 of eligible activities attributable to the eligible property, and
20 the reasonable costs of preparing a work plan or remedial action
21 plan for the eligible property, including the actual cost of the
22 review of the work plan or remedial action plan under section 15.
23 For property owned or under the control of a land bank fast track
24 authority, tax increment revenues related to a brownfield plan may
25 be used for eligible activities attributable to any eligible
26 property owned or under the control of the land bank fast track
27 authority, the cost of principal of and interest on any obligation

1 issued by the authority to pay the costs of eligible activities,
2 the reasonable costs of preparing a work plan or remedial action
3 plan, and the actual cost of the review of the work plan or
4 remedial action plan under section 15. Tax increment revenues
5 captured from taxes levied by this state under the state education
6 tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a
7 local school district shall not be used for eligible activities
8 described in section ~~2(l)(iv)(E)~~ **2(M)(iv)(E)**.

9 (4) Except as provided in subsection (5), a brownfield plan
10 shall not authorize the capture of tax increment revenue from
11 eligible property after the year in which the total amount of tax
12 increment revenues captured is equal to the sum of the costs
13 permitted to be funded with tax increment revenues under this act.

14 (5) A brownfield plan may authorize the capture of additional
15 tax increment revenue from an eligible property in excess of the
16 amount authorized under subsection (4) during the time of capture
17 for the purpose of paying the costs permitted under subsection (3),
18 or for not more than 5 years after the time that capture is
19 required for the purpose of paying the costs permitted under
20 subsection (3), or both. Excess revenues captured under this
21 subsection shall be deposited in the local site remediation
22 revolving fund created under section 8 and used for the purposes
23 authorized in section 8. If tax increment revenues attributable to
24 taxes levied for school operating purposes from eligible property
25 are captured by the authority for purposes authorized under
26 subsection (3), the tax increment revenues captured for deposit in
27 the local site remediation revolving fund also may include tax

1 increment revenues attributable to taxes levied for school
2 operating purposes in an amount not greater than the tax increment
3 revenues levied for school operating purposes captured from the
4 eligible property by the authority for the purposes authorized
5 under subsection (3). Excess tax increment revenues from taxes
6 levied for school operating purposes for eligible activities
7 authorized under subsection (15) by the Michigan economic growth
8 authority shall not be captured for deposit in the local site
9 remediation revolving fund.

10 (6) An authority shall not expend tax increment revenues to
11 acquire or prepare eligible property, unless the acquisition or
12 preparation is an eligible activity.

13 (7) Costs of eligible activities attributable to eligible
14 property include all costs that are necessary or related to a
15 release from the eligible property, including eligible activities
16 on properties affected by a release from the eligible property. For
17 purposes of this subsection, "release" means that term as defined
18 in section 20101 of the natural resources and environmental
19 protection act, 1994 PA 451, MCL 324.20101.

20 (8) Costs of a response activity paid with tax increment
21 revenues that are captured pursuant to subsection (3) may be
22 recovered from a person who is liable for the costs of eligible
23 activities at an eligible property. This state or an authority may
24 undertake cost recovery for tax increment revenue captured. Before
25 an authority or this state may institute a cost recovery action, it
26 must provide the other with 120 days' notice. This state or an
27 authority that recovers costs under this subsection shall apply

1 those recovered costs to the following, in the following order of
2 priority:

3 (a) The reasonable attorney fees and costs incurred by this
4 state or an authority in obtaining the cost recovery.

5 (b) One of the following:

6 (i) If an authority undertakes the cost recovery action, the
7 authority shall deposit the remaining recovered funds into the
8 local site remediation fund created pursuant to section 8, if such
9 a fund has been established by the authority. If a local site
10 remediation fund has not been established, the authority shall
11 disburse the remaining recovered funds to the local taxing
12 jurisdictions in the proportion that the local taxing
13 jurisdictions' taxes were captured.

14 (ii) If this state undertakes a cost recovery action, this
15 state shall deposit the remaining recovered funds into the
16 revitalization revolving loan fund established under section 20108a
17 of the natural resources and environmental protection act, 1994 PA
18 451, MCL 324.20108a.

19 (iii) If this state and an authority each undertake a cost
20 recovery action, undertake a cost recovery action jointly, or 1 on
21 behalf of the other, the amount of any remaining recovered funds
22 shall be deposited pursuant to subparagraphs (i) and (ii) in the
23 proportion that the tax increment revenues being recovered
24 represent local taxes and taxes levied for school operating
25 purposes, respectively.

26 (9) Approval of the brownfield plan or an amendment to a
27 brownfield plan shall be in accordance with the notice and approval

1 provisions of this section and section 14.

2 (10) Before approving a brownfield plan for an eligible
3 property, the governing body shall hold a public hearing on the
4 brownfield plan. Notice of the time and place of the hearing shall
5 be given by publication twice in a newspaper of general circulation
6 designated by the municipality, the first of which shall be not
7 less than 20 or more than 40 days before the date set for the
8 hearing.

9 (11) Notice of the time and place of the hearing on a
10 brownfield plan shall contain all of the following:

11 (a) A description of the property to which the plan applies in
12 relation to existing or proposed highways, streets, streams, or
13 otherwise.

14 (b) A statement that maps, plats, and a description of the
15 brownfield plan are available for public inspection at a place
16 designated in the notice and that all aspects of the brownfield
17 plan are open for discussion at the public hearing required by this
18 section.

19 (c) Any other information that the governing body considers
20 appropriate.

21 (12) At the time set for the hearing on the brownfield plan
22 required under subsection (10), the governing body shall provide an
23 opportunity for interested persons to be heard and shall receive
24 and consider communications in writing with reference to the
25 brownfield plan. The governing body shall make and preserve a
26 record of the public hearing, including all data presented at the
27 hearing.

1 (13) Not less than 20 days before the hearing on the
2 brownfield plan, the governing body shall provide notice of the
3 hearing to the taxing jurisdictions that levy taxes subject to
4 capture under this act. The authority shall fully inform the taxing
5 jurisdictions about the fiscal and economic implications of the
6 proposed brownfield plan. At that hearing, an official from a
7 taxing jurisdiction with millage that would be subject to capture
8 under this act has the right to be heard in regard to the adoption
9 of the brownfield plan.

10 (14) The authority shall not enter into agreements with the
11 taxing jurisdictions and the governing body of the municipality to
12 share a portion of the captured taxable value of an eligible
13 property. Upon adoption of the plan, the collection and
14 transmission of the amount of tax increment revenues as specified
15 in this act shall be binding on all taxing units levying ad valorem
16 property taxes or specific taxes against property located in the
17 zone.

18 (15) Except as provided by subsection (18), if a brownfield
19 plan includes the capture of taxes levied for school operating
20 purposes or the use of tax increment revenues related to a
21 brownfield plan for the cost of eligible activities attributable to
22 more than 1 eligible property that is adjacent and contiguous to
23 all other eligible properties covered by the development agreement,
24 whether or not the captured taxes are levied for school operating
25 purposes, approval of a work plan by the Michigan economic growth
26 authority before January 1, 2008 to use school operating taxes and
27 a development agreement between the municipality and an owner or

1 developer of eligible property are required if the revenues will be
2 used for infrastructure improvements that directly benefit eligible
3 property, demolition of structures that is not response activity
4 under part 201 of the natural resources and environmental
5 protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or
6 asbestos abatement, or site preparation that is not response
7 activity under section 20101 of the natural resources and
8 environmental protection act, 1994 PA 451, MCL 324.20101. The
9 eligible activities to be conducted described in this subsection
10 shall be consistent with the work plan submitted by the authority
11 to the Michigan economic growth authority. The department's
12 approval is not required for the capture of taxes levied for school
13 operating purposes for eligible activities described in this
14 subsection.

15 (16) The limitations of section 15(1) upon use of tax
16 increment revenues by an authority shall not apply to the following
17 costs and expenses:

18 (a) In each fiscal year of the authority, \$75,000.00 for the
19 following purposes for tax increment revenues attributable to local
20 taxes:

21 (i) Reasonable and actual administrative and operating expenses
22 of the authority.

23 (ii) Baseline environmental assessments, due care activities,
24 and additional response activities related directly to work
25 conducted on prospective eligible properties prior to approval of
26 the brownfield plan.

27 (b) Reasonable costs of preparing a work plan or remedial

1 action plan or the cost of the review of a work plan for which tax
2 increment revenues may be used under section 13(3).

3 (17) A brownfield authority may reimburse advances, with or
4 without interest, made by a municipality under section 7(3), a land
5 bank fast track authority, or any other person or entity for costs
6 of eligible activities with any source of revenue available for use
7 of the brownfield authority under this act and may enter into
8 agreements related to those reimbursements. A reimbursement
9 agreement for these purposes and the obligations under that
10 reimbursement agreement shall not be subject to section 12 or the
11 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
12 141.2821.

13 (18) If a brownfield plan includes the capture of taxes levied
14 for school operating purposes, approval of a work plan by the
15 Michigan economic growth authority in the manner required under
16 section 15(14) to (16) is required in order to use tax increment
17 revenues attributable to taxes levied for school operating purposes
18 for purposes of eligible activities described in section ~~2(I)(iv)(E)~~
19 **2(M)(iv)(E)** for 1 or more parcels of eligible property. The work
20 plan to be submitted to the Michigan economic growth authority
21 under this subsection shall be in a form prescribed by the Michigan
22 economic growth authority. The eligible activities to be conducted
23 and described in this subsection shall be consistent with the work
24 plan submitted by the authority to the Michigan economic growth
25 authority. The department's approval is not required for the
26 capture of taxes levied for school operating purposes for eligible
27 activities described in this section.

1 Sec. 15. (1) An authority shall not do any of the following:

2 (a) For eligible activities not described in section 13(15),
3 use taxes levied for school operating purposes captured from
4 eligible property unless the eligible activities to be conducted on
5 the eligible property are eligible activities under part 201 of the
6 natural resources and environmental protection act, 1994 PA 451,
7 MCL 324.20101 to 324.20142, consistent with a work plan or remedial
8 action plan approved by the department after July 24, 1996 and
9 before January 1, 2008.

10 (b) For eligible activities not described in section 13(15),
11 use funds from a local site remediation revolving fund that are
12 derived from taxes levied for school operating purposes unless the
13 eligible activities to be conducted are eligible activities under
14 part 201 of the natural resources and environmental protection act,
15 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work
16 plan or remedial action plan that has been approved by the
17 department after July 24, 1996.

18 (c) Use funds from a local site remediation revolving fund
19 created pursuant to section 8 that are derived from taxes levied
20 for school operating purposes for the eligible activities described
21 in section 13(15) unless the eligible activities to be conducted
22 are consistent with a work plan approved by the Michigan economic
23 growth authority.

24 (d) Use taxes captured from eligible property to pay for
25 eligible activities conducted before approval of the brownfield
26 plan except for costs described in section 13(16).

27 (e) Use taxes levied for school operating purposes captured

1 from eligible property for response activities that benefit a party
2 liable under section 20126 of the natural resources and
3 environmental protection act, 1994 PA 451, MCL 324.20126, except
4 that a municipality that established the authority, for taxes
5 levied after 2004, may use taxes levied for school operating
6 purposes captured from eligible property for response activities
7 associated with a landfill.

8 (f) Use taxes captured from eligible property to pay for
9 administrative and operating activities of the authority or the
10 municipality on behalf of the authority except for costs described
11 in section 13(16) and for the reasonable costs for preparing a work
12 plan or remedial action plan for the eligible property, including
13 the actual cost of the review of the work plan or remedial action
14 plan under this section.

15 (2) To seek department approval of a work plan under
16 subsection (1)(a) or (b) or remedial action plan, the authority
17 shall submit all of the following for each eligible property:

18 (a) A copy of the brownfield plan.

19 (b) Current ownership information for each eligible property
20 and a summary of available information on proposed future
21 ownership, including the amount of any delinquent taxes, interest,
22 and penalties that may be due.

23 (c) A summary of available information on the historical and
24 current use of each eligible property, including a brief summary of
25 site conditions and what is known about environmental contamination
26 as that term is defined in section 20101 of the natural resources
27 and environmental protection act, 1994 PA 451, MCL 324.20101.

1 (d) Existing and proposed future zoning for each eligible
2 property.

3 (e) A brief summary of the proposed redevelopment and future
4 use for each eligible property.

5 (f) A separate work plan or remedial action plan, or part of a
6 work plan or remedial action plan, for each eligible activity to be
7 undertaken.

8 (3) Upon receipt of a request for approval of a work plan or
9 remedial action plan under subsection (2) that pertains to baseline
10 environmental assessment activities or due care activities, or
11 both, or a portion of a work plan or remedial action plan that
12 pertains to only baseline environmental assessment activities or
13 due care activities, or both, the department shall provide 1 of the
14 following written responses to the requesting authority within 60
15 days:

16 (a) An unconditional approval.

17 (b) A conditional approval that delineates specific necessary
18 modifications to the work plan or remedial action plan, including,
19 but not limited to, individual activities to be added or deleted
20 from the work plan or remedial action plan and revision of costs.

21 (c) If the work plan or remedial action plan lacks sufficient
22 information for the department to respond under subdivision (a) or
23 (b), a letter stating with specificity the necessary additions or
24 changes to the work plan or remedial action plan to be submitted
25 before a plan will be considered by the department.

26 (4) In its review of a work plan or remedial action plan, the
27 department shall consider all of the following:

1 (a) Whether the individual activities included in the work
2 plan or remedial action plan are sufficient to complete the
3 eligible activity.

4 (b) Whether each individual activity included in the work plan
5 or remedial action plan is required to complete the eligible
6 activity.

7 (c) Whether the cost for each individual activity is
8 reasonable.

9 (5) If the department fails to provide a written response
10 under subsection (3) within 60 days after receipt of a request for
11 approval of a work plan or remedial action plan that pertains to
12 baseline environmental assessment activities or due care
13 activities, or both, the authority may proceed with the baseline
14 environmental assessment activities or due care activities, or
15 both, as outlined in the work plan or remedial action plan as
16 submitted for approval. Except as provided in subsection (6),
17 baseline environmental assessment activities or due care
18 activities, or both, conducted pursuant to a work plan or remedial
19 action plan that was submitted to the department for approval but
20 for which the department failed to provide a written response under
21 subsection (3) shall be considered approved for the purposes of
22 subsection (1).

23 (6) The department may issue a written response to a work plan
24 or remedial action plan that pertains to baseline environmental
25 assessment activities or due care activities, or both, more than 60
26 days but less than 6 months after receipt of a request for
27 approval. If the department issues a written response under this

1 subsection, the authority is not required to conduct individual
2 activities that are in addition to the individual activities
3 included in the work plan or remedial action plan as it was
4 submitted for approval and failure to conduct these additional
5 activities shall not affect the authority's ability to capture
6 taxes under subsection (1) for the eligible activities described in
7 the work plan or remedial action plan initially submitted under
8 subsection (5). In addition, at the option of the authority, these
9 additional individual activities shall be considered part of the
10 work plan or remedial action plan of the authority and approved for
11 purposes of subsection (1). However, any response by the department
12 under this subsection that identifies additional individual
13 activities that must be carried out to satisfy the baseline
14 environmental assessment or due care requirements, or both, of part
15 201 of the natural resources and environmental protection act, 1994
16 PA 451, MCL 324.20101 to 324.20142, must be satisfactorily
17 completed for the baseline environmental assessment or due care
18 activities, or both, to be considered acceptable for the purposes
19 of compliance with part 201 of the natural resources and
20 environmental protection act, 1994 PA 451, MCL 324.20101 to
21 324.20142.

22 (7) If the department issues a written response under
23 subsection (6) to a work plan or remedial action plan that pertains
24 to baseline environmental assessment activities or due care
25 activities, or both, and if the department's written response
26 modifies an individual activity proposed by the work plan or
27 remedial action plan of the authority in a manner that reduces or

1 eliminates a proposed response activity, the authority must
2 complete those individual activities included in the baseline
3 environmental assessment or due care activities, or both, in
4 accordance with the department's response in order for that portion
5 of the work plan or remedial action plan to be considered approved
6 for purposes of subsection (1), unless 1 or more of the following
7 conditions apply:

8 (a) Obligations for the individual activity have been issued
9 by the authority, or by a municipality on behalf of the authority,
10 to fund the individual activity prior to issuance of the
11 department's response.

12 (b) The individual activity has commenced or payment for the
13 work has been irrevocably obligated prior to issuance of the
14 department's response.

15 (8) It shall be in the sole discretion of an authority to
16 propose to undertake additional response activities at an eligible
17 property under a brownfield plan. The department shall not require
18 a work plan or remedial action plan for either baseline
19 environmental assessment activities or due care activities, or
20 both, to include additional response activities.

21 (9) The department may reject the portion of a work plan or
22 remedial action plan that includes additional response activities
23 and may consider the level of risk reduction that will be
24 accomplished by the additional response activities in determining
25 whether to approve or reject the work plan or remedial action plan
26 or a portion of a plan.

27 (10) The department's approval or rejection of a work plan

1 under subsection (1)(a) or (b) or remedial action plan for
2 additional response activities is final.

3 (11) The authority shall reimburse the department for the
4 actual cost incurred by the department or a contractor of the
5 department to review a work plan under subsection (1)(a) or (b) or
6 remedial action plan under this section. Funds paid to the
7 department under this subsection shall be deposited in the cost
8 recovery subaccount of the cleanup and redevelopment fund created
9 under section 20108 of the natural resources and environmental
10 protection act, 1994 PA 451, MCL 324.20108.

11 (12) The department shall submit a report each year on or
12 before March 1 to each member of the legislature that contains all
13 of the following:

14 (a) A compilation and summary of all the information submitted
15 under subsection (2).

16 (b) The amount of revenue this state would have received if
17 taxes levied for school operating purposes had not been captured
18 under this section for the previous calendar year.

19 (c) The amount of revenue each local governmental unit would
20 have received if taxes levied for school operating purposes had not
21 been captured under this section for the previous calendar year.

22 (13) To seek Michigan economic growth authority approval of a
23 work plan under subsection (1)(c) or section 13(15), the authority
24 shall submit all of the following for each eligible property:

25 (a) A copy of the brownfield plan.

26 (b) Current ownership information for each eligible property
27 and a summary of available information on proposed future

1 ownership, including the amount of any delinquent taxes, interest,
2 and penalties that may be due.

3 (c) A summary of available information on the historical and
4 current use of each eligible property.

5 (d) Existing and proposed future zoning for each eligible
6 property.

7 (e) A brief summary of the proposed redevelopment and future
8 use for each eligible property.

9 (f) A separate work plan, or part of a work plan, for each
10 eligible activity described in section 13(15) to be undertaken.

11 (g) A copy of the development agreement required under section
12 13(15), which shall include, but is not limited to, a detailed
13 summary of any and all ownership interests, monetary
14 considerations, fees, revenue and cost sharing, charges, or other
15 financial arrangements or other consideration between the parties.

16 (14) Upon receipt of a request for approval of a work plan,
17 the Michigan economic growth authority shall provide 1 of the
18 following written responses to the requesting authority within 65
19 days:

20 (a) An unconditional approval that includes an enumeration of
21 eligible activities and a maximum allowable capture amount.

22 (b) A conditional approval that delineates specific necessary
23 modifications to the work plan, including, but not limited to,
24 individual activities to be added or deleted from the work plan and
25 revision of costs.

26 (c) A denial and a letter stating with specificity the reason
27 for the denial. If a work plan is denied under this subsection, the

1 work plan may be subsequently resubmitted.

2 (15) In its review of a work plan under subsection (1)(c) or
3 section 13(15), the Michigan economic growth authority shall
4 consider the following criteria to the extent reasonably applicable
5 to the type of activities proposed as part of that work plan when
6 approving or denying a work plan:

7 (a) Whether the individual activities included in the work
8 plan are sufficient to complete the eligible activity.

9 (b) Whether each individual activity included in the work plan
10 is required to complete the eligible activity.

11 (c) Whether the cost for each individual activity is
12 reasonable.

13 (d) The overall benefit to the public.

14 (e) The extent of reuse of vacant buildings and redevelopment
15 of blighted property.

16 (f) Creation of jobs.

17 (g) Whether the eligible property is in an area of high
18 unemployment.

19 (h) The level and extent of contamination alleviated by or in
20 connection with the eligible activities.

21 (i) The level of private sector contribution.

22 (j) The cost gap that exists between the site and a similar
23 greenfield site as determined by the Michigan economic growth
24 authority.

25 (k) If the developer or projected occupant of the new
26 development is moving from another location in this state, whether
27 the move will create a brownfield.

1 (l) Whether the financial statements of the developer,
2 landowner, or corporate entity indicate that the developer,
3 landowner, or corporate entity is financially sound and that the
4 project of the developer, landowner, or corporate entity that is
5 included in the work plan is economically sound.

6 (m) Other state and local incentives available to the
7 developer, landowner, or corporate entity for the project of the
8 developer, landowner, or corporate entity that is included in the
9 work plan.

10 (n) Any other criteria that the Michigan economic growth
11 authority considers appropriate for the determination of
12 eligibility or for approval of the work plan.

13 (16) If the Michigan economic growth authority fails to
14 provide a written response under subsection (14) within 65 days
15 after receipt of a request for approval of a work plan, the
16 eligible activities shall be considered approved and the authority
17 may proceed with the eligible activities described in section
18 13(15) as outlined in the work plan as submitted for approval.

19 (17) The Michigan economic growth authority's approval of a
20 work plan under section 13(15) is final.

21 (18) The authority shall reimburse the Michigan economic
22 growth authority for the actual cost incurred by the Michigan
23 economic growth authority or a contractor of the Michigan economic
24 growth authority to review a work plan under this section.

25 (19) The Michigan economic growth authority shall submit a
26 report each year on or before March 1 to each member of the
27 legislature that contains all of the following:

1 (a) A compilation and summary of all the information submitted
2 under subsection (13).

3 (b) The amount of revenue this state would have received if
4 taxes levied for school operating purposes had not been captured
5 under this section for the previous calendar year.

6 (c) The amount of revenue each local governmental unit would
7 have received if taxes levied for school operating purposes had not
8 been captured under this section for the previous calendar year.

9 (20) All taxes levied for school operating purposes that are
10 not used for eligible activities consistent with a work plan
11 approved by the department or the Michigan economic growth
12 authority or for the payment of interest under section 13 and that
13 are not deposited in a local site remediation revolving fund shall
14 be distributed proportionately between the local school district
15 and the school aid fund.

16 (21) An authority shall not use taxes levied for school
17 operating purposes captured from eligible property for eligible
18 activities for a qualified facility **OR FOR ELIGIBLE ACTIVITIES FOR**
19 **PROPERTY LOCATED IN AN ECONOMIC OPPORTUNITY ZONE.**