

HOUSE BILL No. 5457

September 23, 2009, Introduced by Reps. Dean, Lipton, Roy Schmidt, Stanley, Kennedy and Durhal and referred to the Committee on Commerce.

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending sections 2 and 13 (MCL 125.2652 and 125.2663), section
2 as amended by 2007 PA 204 and section 13 as amended by 2007 PA
202.

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

1 activities for an eligible property.

2 (b) "Authority" means a brownfield redevelopment authority
3 created under this act.

4 (c) "Baseline environmental assessment" means that term as
5 defined in section 20101 of the natural resources and environmental
6 protection act, 1994 PA 451, MCL 324.20101.

7 (d) "Baseline environmental assessment activities" means those
8 response activities identified as part of a brownfield plan that
9 are necessary to complete a baseline environmental assessment for
10 an eligible property in the brownfield plan.

11 (e) "Blighted" means property that meets any of the following
12 criteria as determined by the governing body:

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

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

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

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

23 (v) Is tax reverted property owned by a qualified local
24 governmental unit, by a county, or by this state. The sale, lease,
25 or transfer of tax reverted property by a qualified local
26 governmental unit, county, or this state after the property's
27 inclusion in a brownfield plan shall not result in the loss to the

1 property of the status as blighted property for purposes of this
2 act.

3 (vi) Is property owned or under the control of a land bank fast
4 track authority under the land bank fast track act, **2003 PA 258,**
5 **MCL 124.751 TO 124.774,** whether or not located within a qualified
6 local governmental unit. Property included within a brownfield plan
7 prior to the date it meets the requirements of this subdivision to
8 be eligible property shall be considered to become eligible
9 property as of the date the property is determined to have been or
10 becomes qualified as, or is combined with, other eligible property.
11 The sale, lease, or transfer of the property by a land bank fast
12 track authority after the property's inclusion in a brownfield plan
13 shall not result in the loss to the property of the status as
14 blighted property for purposes of this act.

15 (vii) Has substantial subsurface demolition debris buried on
16 site so that the property is unfit for its intended use.

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

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

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

27 (i) "Chief executive officer" means the mayor of a city, the

1 village manager of a village, the township supervisor of a
2 township, or the county executive of a county or, if the county
3 does not have an elected county executive, the chairperson of the
4 county board of commissioners.

5 (j) "Department" means the department of environmental
6 quality.

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

12 (l) "Economic opportunity zone" means 1 or more parcels of
13 property that meet all of the following:

14 (i) That together are 40 or more acres in size.

15 (ii) That contain a manufacturing facility that consists of
16 500,000 or more square feet.

17 (iii) That are located in a municipality that has a population
18 of 30,000 or less and that is contiguous to a qualified local
19 governmental unit.

20 (m) "Eligible activities" or "eligible activity" means 1 or
21 more of the following:

22 (i) Baseline environmental assessment activities.

23 (ii) Due care activities.

24 (iii) Additional response activities.

25 (iv) For eligible activities on eligible property that was used
26 or is currently used for commercial, industrial, or residential
27 purposes that is in a qualified local governmental unit, that is

1 owned or under the control of a land bank fast track authority, or
2 that is located in an economic opportunity zone, and is a facility,
3 functionally obsolete, or blighted, and except for purposes of
4 ~~former section 38d of the single business tax act, FORMER~~ 1975 PA
5 228, the following additional activities:

6 (A) Infrastructure improvements that directly benefit eligible
7 property.

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

11 (C) Lead or asbestos abatement.

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

15 (E) Assistance to a land bank fast track authority in clearing
16 or quieting title to, or selling or otherwise conveying, property
17 owned or under the control of a land bank fast track authority or
18 the acquisition of property by the land bank fast track authority
19 if the acquisition of the property is for economic development
20 purposes.

21 (v) Relocation of public buildings or operations for economic
22 development purposes.

23 (vi) For eligible activities on eligible property that is a
24 qualified facility that is not located in a qualified local
25 governmental unit and that is a facility, functionally obsolete, or
26 blighted, the following additional activities:

27 (A) Infrastructure improvements that directly benefit eligible

1 property.

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

5 (C) Lead or asbestos abatement.

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

9 (vii) For eligible activities on eligible property that is not
10 located in a qualified local governmental unit and that is a
11 facility, functionally obsolete, or blighted, the following
12 additional activities:

13 (A) Demolition of structures that is not response activity
14 under section 20101 of the natural resources and environmental
15 protection act, 1994 PA 451, MCL 324.20101.

16 (B) Lead or asbestos abatement.

17 (viii) Reasonable costs of developing and preparing brownfield
18 plans and work plans.

19 (ix) For property that is not located in a qualified local
20 governmental unit and that is a facility, functionally obsolete, or
21 blighted, that is a former mill that has not been used for
22 industrial purposes for the immediately preceding 2 years, that is
23 located along a river that is a federal superfund site listed under
24 the comprehensive environmental response, compensation, and
25 liability act of 1980, 42 USC 9601 to 9675, and that is located in
26 a city with a population of less than 10,000 persons, the following
27 additional activities:

1 (A) Infrastructure improvements that directly benefit the
2 property.

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

6 (C) Lead or asbestos abatement.

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

10 (x) For eligible activities on eligible property that is
11 located north of the 45th parallel, that is a facility,
12 functionally obsolete, or blighted, and the owner or operator of
13 which makes new capital investment of \$250,000,000.00 or more in
14 this state, the following additional activities:

15 (A) Demolition of structures that is not response activity
16 under section 20101 of the natural resources and environmental
17 protection act, 1994 PA 451, MCL 324.20101.

18 (B) Lead or asbestos abatement.

19 (xi) Reasonable costs of environmental insurance.

20 **(xii) RELOCATION OF PUBLIC SCHOOL BUILDINGS, OPERATIONS, OR**
21 **SERVICES FOR ECONOMIC DEVELOPMENT PURPOSES.**

22 (n) Except as otherwise provided in this subdivision,
23 "eligible property" means property for which eligible activities
24 are identified under a brownfield plan that was used or is
25 currently used for commercial, industrial, public, or residential
26 purposes, including personal property located on the property, to
27 the extent included in the brownfield plan, and that is 1 or more

1 of the following:

2 (i) Is in a qualified local governmental unit and is a
3 facility, functionally obsolete, or blighted and includes parcels
4 that are adjacent or contiguous to that property if the development
5 of the adjacent and contiguous parcels is estimated to increase the
6 captured taxable value of that property.

7 (ii) Is not in a qualified local governmental unit and is a
8 facility, and includes parcels that are adjacent or contiguous to
9 that property if the development of the adjacent and contiguous
10 parcels is estimated to increase the captured taxable value of that
11 property.

12 (iii) Is tax reverted property owned or under the control of a
13 land bank fast track authority.

14 (iv) Is not in a qualified local governmental unit, is a
15 qualified facility, and is a facility, functionally obsolete, or
16 blighted, if the eligible activities on the property are limited to
17 the eligible activities identified in subdivision (m) (vi) .

18 (v) Is not in a qualified local governmental unit and is a
19 facility, functionally obsolete, or blighted, if the eligible
20 activities on the property are limited to the eligible activities
21 identified in subdivision (m) (vii) .

22 (vi) Is not in a qualified local governmental unit and is a
23 facility, functionally obsolete, or blighted, if the eligible
24 activities on the property are limited to the eligible activities
25 identified in subdivision (m) (ix) .

26 (vii) Is located north of the 45th parallel, is a facility,
27 functionally obsolete, or blighted, and the owner or operator makes

1 new capital investment of \$250,000,000.00 or more in this state.
2 Eligible property does not include qualified agricultural property
3 exempt under section 7ee of the general property tax act, 1893 PA
4 206, MCL 211.7ee, from the tax levied by a local school district
5 for school operating purposes to the extent provided under section
6 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

7 (o) "Environmental insurance" means liability insurance for
8 environmental contamination and cleanup that is not otherwise
9 required by state or federal law.

10 (p) "Facility" means that term as defined in section 20101 of
11 the natural resources and environmental protection act, 1994 PA
12 451, MCL 324.20101.

13 (q) "Fiscal year" means the fiscal year of the authority.

14 (r) "Functionally obsolete" means that the property is unable
15 to be used to adequately perform the function for which it was
16 intended due to a substantial loss in value resulting from factors
17 such as overcapacity, changes in technology, deficiencies or
18 superadequacies in design, or other similar factors that affect the
19 property itself or the property's relationship with other
20 surrounding property.

21 (s) "Governing body" means the elected body having legislative
22 powers of a municipality creating an authority under this act.

23 (t) "Infrastructure improvements" means a street, road,
24 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
25 sewage treatment plant, property designed to reduce, eliminate, or
26 prevent the spread of identified soil or groundwater contamination,
27 drainage system, waterway, waterline, water storage facility, rail

1 line, utility line or pipeline, or other similar or related
2 structure or improvement, together with necessary easements for the
3 structure or improvement, owned or used by a public agency or
4 functionally connected to similar or supporting property owned or
5 used by a public agency, or designed and dedicated to use by, for
6 the benefit of, or for the protection of the health, welfare, or
7 safety of the public generally, whether or not used by a single
8 business entity, provided that any road, street, or bridge shall be
9 continuously open to public access and that other property shall be
10 located in public easements or rights-of-way and sized to
11 accommodate reasonably foreseeable development of eligible property
12 in adjoining areas.

13 (u) "Initial taxable value" means the taxable value of an
14 eligible property identified in and subject to a brownfield plan at
15 the time the resolution adding that eligible property in the
16 brownfield plan is adopted, as shown either by the most recent
17 assessment roll for which equalization has been completed at the
18 time the resolution is adopted or, if provided by the brownfield
19 plan, by the next assessment roll for which equalization will be
20 completed following the date the resolution adding that eligible
21 property in the brownfield plan is adopted. Property exempt from
22 taxation at the time the initial taxable value is determined shall
23 be included with the initial taxable value of zero. Property for
24 which a specific tax is paid in lieu of property tax shall not be
25 considered exempt from taxation. The state tax commission shall
26 prescribe the method for calculating the initial taxable value of
27 property for which a specific tax was paid in lieu of property tax.

1 (v) "Land bank fast track authority" means an authority
2 created under the land bank fast track act, 2003 PA 258, MCL
3 124.751 to 124.774.

4 (w) "Local taxes" means all taxes levied other than taxes
5 levied for school operating purposes.

6 (x) "Municipality" means all of the following:

7 (i) A city.

8 (ii) A village.

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

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

14 (v) A county.

15 (y) "Owned or under the control of" means that a land bank
16 fast track authority has 1 or more of the following:

17 (i) An ownership interest in the property.

18 (ii) A tax lien on the property.

19 (iii) A tax deed to the property.

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

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

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

25 (z) "Qualified facility" means a landfill facility area of 140
26 or more contiguous acres that is located in a city and that
27 contains a landfill, a material recycling facility, and an asphalt

1 plant that are no longer in operation.

2 (aa) "Qualified local governmental unit" means that term as
3 defined in the obsolete property rehabilitation act, 2000 PA 146,
4 MCL 125.2781 to 125.2797.

5 (bb) "Qualified taxpayer" means that term as defined in ~~former~~
6 sections 38d and 38g of ~~the single business tax act, FORMER~~ 1975 PA
7 228, or section 437 of the Michigan business tax act, 2007 PA 36,
8 MCL 208.1437.

9 (cc) "Response activity" means that term as defined in section
10 20101 of the natural resources and environmental protection act,
11 1994 PA 451, MCL 324.20101.

12 (dd) "Specific taxes" means a tax levied under 1974 PA 198,
13 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
14 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
15 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
16 technology park development act, 1984 PA 385, MCL 207.701 to
17 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
18 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
19 147, MCL 207.771 to 207.786; the commercial rehabilitation act,
20 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax
21 levied under the tax reverted clean title act, 2003 PA 260, MCL
22 211.1021 to 211.1026, that is not required to be distributed to a
23 land bank fast track authority.

24 (ee) "Tax increment revenues" means the amount of ad valorem
25 property taxes and specific taxes attributable to the application
26 of the levy of all taxing jurisdictions upon the captured taxable
27 value of each parcel of eligible property subject to a brownfield

1 plan and personal property located on that property. Tax increment
2 revenues exclude ad valorem property taxes specifically levied for
3 the payment of principal of and interest on either obligations
4 approved by the electors or obligations pledging the unlimited
5 taxing power of the local governmental unit, and specific taxes
6 attributable to those ad valorem property taxes. Tax increment
7 revenues attributable to eligible property also exclude the amount
8 of ad valorem property taxes or specific taxes captured by a
9 downtown development authority, tax increment finance authority, or
10 local development finance authority if those taxes were captured by
11 these other authorities on the date that eligible property became
12 subject to a brownfield plan under this act.

13 (ff) "Taxable value" means the value determined under section
14 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

15 (gg) "Taxes levied for school operating purposes" means all of
16 the following:

17 (i) The taxes levied by a local school district for operating
18 purposes.

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

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

23 (hh) "Work plan" means a plan that describes each individual
24 activity to be conducted to complete eligible activities and the
25 associated costs of each individual activity.

26 (ii) "Zone" means, for an authority established before June 6,
27 2000, a brownfield redevelopment zone designated under this act.

1 Sec. 13. (1) Subject to section 15, the board may implement a
2 brownfield plan. The brownfield plan may apply to 1 or more parcels
3 of eligible property whether or not those parcels of eligible
4 property are contiguous and may be amended to apply to additional
5 parcels of eligible property. Except as otherwise authorized by
6 this act, if more than 1 eligible property is included within the
7 plan, the tax increment revenues under the plan shall be determined
8 individually for each eligible property. Each plan or an amendment
9 to a plan shall be approved by the governing body of the
10 municipality and shall contain all of the following:

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

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

23 (c) An estimate of the captured taxable value and tax
24 increment revenues for each year of the plan from the eligible
25 property. The plan may provide for the use of part or all of the
26 captured taxable value, including deposits in the local site
27 remediation revolving fund, but the portion intended to be used

1 shall be clearly stated in the plan. The plan shall not provide
2 either for an exclusion from captured taxable value of a portion of
3 the captured taxable value or for an exclusion of the tax levy of 1
4 or more taxing jurisdictions unless the tax levy is excluded from
5 tax increment revenues in section 2(dd), or unless the tax levy is
6 excluded from capture under section 15.

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

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

13 (f) The duration of the brownfield plan for eligible
14 activities on eligible property which shall not exceed 35 years
15 following the date of the resolution approving the plan amendment
16 related to a particular eligible property. Each plan amendment
17 shall also contain the duration of capture of tax increment
18 revenues including the beginning date of the capture of tax
19 increment revenues, which beginning date shall be identified in the
20 brownfield plan and which beginning date shall not be later than 5
21 years following the date of the resolution approving the plan
22 amendment related to a particular eligible property and which
23 duration shall not exceed the lesser of the period authorized under
24 subsections (4) and (5) or 30 years from the beginning date of the
25 capture of tax increment revenues. The date for the beginning of
26 capture of tax increment revenues may be amended by the authority
27 but not to a date later than 5 years after the date of the

1 resolution adopting the plan. The authority may not amend the date
2 for the beginning of capture of tax increment revenues if the
3 authority has begun to reimburse eligible activities from the
4 capture of tax increment revenues. The authority may not amend the
5 date for the beginning of capture if that amendment would lead to
6 the duration of capture of tax increment revenues being longer than
7 30 years or the period authorized under subsections (4) and (5). If
8 the date for the beginning of capture of tax increment revenues is
9 amended by the authority and that plan includes the capture of tax
10 increment revenues for school operating purposes, then the
11 authority that amended that plan shall notify the department and
12 the Michigan economic growth authority within 30 days of the
13 approval of the amendment.

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 the eligible property to which the
18 plan applies, a map showing the location and dimensions of each
19 eligible property, a statement of the characteristics that qualify
20 the property as eligible property, and a statement of whether
21 personal property is included as part of the eligible property. If
22 the project is on property that is functionally obsolete, the
23 taxpayer shall include, with the application, an affidavit signed
24 by a level 3 or level 4 assessor, that states that it is the
25 assessor's expert opinion that the property is functionally
26 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 brownfield plan or a work plan
21 for the eligible property, including the actual cost of the review
22 of the work plan under section 15. For property owned or under the
23 control of a land bank fast track authority, tax increment revenues
24 related to a brownfield plan may be used for eligible activities
25 attributable to any eligible property owned or under the control of
26 the land bank fast track authority, the cost of principal of and
27 interest on any obligation issued by the authority to pay the costs

1 of eligible activities, the reasonable costs of preparing a work
2 plan, and the actual cost of the review of the work plan under
3 section 15. Except as provided in subsection (18), tax increment
4 revenues captured from taxes levied by this state under the state
5 education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes
6 levied by a local school district shall not be used for eligible
7 activities described in section 2(m)(iv)(E).

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

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

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

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

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

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

1 priority:

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

4 (b) One of the following:

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

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

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

25 (9) Approval of the brownfield plan or an amendment to a
26 brownfield plan shall be in accordance with the notice and approval
27 provisions of this section and section 14.

1 (10) Before approving a brownfield plan for an eligible
2 property, the governing body shall hold a public hearing on the
3 brownfield plan. By resolution, the governing body may delegate the
4 public hearing process to the authority or to a subcommittee of the
5 governing body subject to final approval by the governing body.
6 Notice of the time and place of the hearing shall be given by
7 publication twice in a newspaper of general circulation designated
8 by the municipality, not less than 10 or more than 40 days before
9 the date set for the hearing.

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

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

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

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

22 (12) At the time set for the hearing on the brownfield plan
23 required under subsection (10), the governing body shall ensure
24 that interested persons have an opportunity to be heard and that
25 written communications with reference to the brownfield plan are
26 received and considered. The governing body shall ensure that a
27 record of the public hearing is made and preserved, including all

1 data presented at the hearing.

2 (13) Not less than 10 days before the hearing on the
3 brownfield plan, the governing body shall provide notice of the
4 hearing to the taxing jurisdictions that levy taxes subject to
5 capture under this act. The authority shall fully inform the taxing
6 jurisdictions about the fiscal and economic implications of the
7 proposed brownfield plan. At that hearing, an official from a
8 taxing jurisdiction with millage that would be subject to capture
9 under this act has the right to be heard in regard to the adoption
10 of the brownfield plan. Not less than 10 days before the hearing on
11 the brownfield plan, the governing body shall provide notice of the
12 hearing to the department if the brownfield plan involves the use
13 of taxes levied for school operating purposes to pay for eligible
14 activities that require the approval of a work plan by the
15 department under section 15(1)(a) and the Michigan economic growth
16 authority, or its designee, if the brownfield plan involves the use
17 of taxes levied for school operating purposes to pay for eligible
18 activities subject to subsection (15) or (18).

19 (14) The authority shall not enter into agreements with the
20 taxing jurisdictions and the governing body of the municipality to
21 share a portion of the captured taxable value of an eligible
22 property. Upon adoption of the plan, the collection and
23 transmission of the amount of tax increment revenues as specified
24 in this act shall be binding on all taxing units levying ad valorem
25 property taxes or specific taxes against property located in the
26 zone.

27 (15) Except as provided by subsection (18), if a brownfield

1 plan includes the capture of taxes levied for school operating
2 purposes approval of a work plan by the Michigan economic growth
3 authority before January 1, 2013 to use taxes levied for school
4 operating purposes and a development agreement or reimbursement
5 agreement between the municipality or authority and an owner or
6 developer of eligible property are required if the taxes levied for
7 school operating purposes will be used for infrastructure
8 improvements that directly benefit eligible property, demolition of
9 structures that is not response activity under part 201 of the
10 natural resources and environmental protection act, 1994 PA 451,
11 MCL 324.20101 to 324.20142, lead or asbestos abatement, site
12 preparation that is not response activity under section 20101 of
13 the natural resources and environmental protection act, 1994 PA
14 451, MCL 324.20101, relocation of public buildings or operations
15 for economic development purposes, **RELOCATION OF PUBLIC SCHOOL**
16 **BUILDINGS, OPERATIONS, OR SERVICES FOR ECONOMIC DEVELOPMENT**
17 **PURPOSES**, or acquisition of property by a land bank fast track
18 authority if acquisition of the property is for economic
19 development purposes. The eligible activities to be conducted
20 described in this subsection shall be consistent with the work plan
21 submitted by the authority to the Michigan economic growth
22 authority. The department's approval is not required for the
23 capture of taxes levied for school operating purposes for eligible
24 activities described in this subsection.

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

1 (a) In each fiscal year of the authority, the amount described
2 in subsection (19) for the following purposes for tax increment
3 revenues attributable to local taxes:

4 (i) Reasonable and actual administrative and operating expenses
5 of the authority.

6 (ii) Baseline environmental assessments, due care activities,
7 and additional response activities conducted by or on behalf of the
8 authority related directly to work conducted on prospective
9 eligible properties prior to approval of the brownfield plan.

10 (b) Reasonable costs of preparing a work plan or the cost of
11 the review of a work plan for which tax increment revenues may be
12 used under section 13(3).

13 (c) For tax increment revenues attributable to local taxes,
14 reasonable costs of site investigations described in section
15 15(1)(a)(i), baseline environmental assessments, and due care
16 activities incurred by a person other than the authority related
17 directly to work conducted on eligible property or prospective
18 eligible properties prior to approval of the brownfield plan, if
19 those costs and the eligible property are included in a brownfield
20 plan approved by the authority.

21 (17) A brownfield authority may reimburse advances, with or
22 without interest, made by a municipality under section 7(3), a land
23 bank fast track authority, or any other person or entity for costs
24 of eligible activities with any source of revenue available for use
25 of the brownfield authority under this act. If an authority
26 reimburses a person or entity under this section for an advance for
27 the payment or reimbursement of the cost of eligible activities and

1 interest thereon, the authority may capture local taxes for the
2 payment of that interest. If an authority reimburses a person or
3 entity under this section for an advance for the payment or
4 reimbursement of the cost of baseline environmental assessments,
5 due care, and additional response activities and interest thereon
6 included in a work plan approved by the department, the authority
7 may capture taxes levied for school operating purposes and local
8 taxes for the payment of that interest. If an authority reimburses
9 a person or entity under this section for an advance for the
10 payment or reimbursement of the cost of eligible activities that
11 are not baseline environmental assessments, due care, and
12 additional response activities and interest thereon included in a
13 work plan approved by the Michigan economic growth authority, the
14 authority may capture taxes levied for school operating purposes
15 and local taxes for the payment of that interest provided that the
16 Michigan economic growth authority grants an approval for the
17 capture of taxes levied for school operating purposes to pay such
18 interest. An authority may enter into agreements related to these
19 reimbursements and payments. A reimbursement agreement for these
20 purposes and the obligations under that reimbursement agreement
21 shall not be subject to section 12 or the revised municipal finance
22 act, 2001 PA 34, MCL 141.2101 to 141.2821.

23 (18) If a brownfield plan includes the capture of taxes levied
24 for school operating purposes, approval of a work plan by the
25 Michigan economic growth authority in the manner required under
26 section 15(14) to (16) is required in order to use tax increment
27 revenues attributable to taxes levied for school operating purposes

1 for purposes of eligible activities described in section 2(m)(iv)(E)
2 for 1 or more parcels of eligible property. The work plan to be
3 submitted to the Michigan economic growth authority under this
4 subsection shall be in a form prescribed by the Michigan economic
5 growth authority. The eligible activities to be conducted and
6 described in this subsection shall be consistent with the work plan
7 submitted by the authority to the Michigan economic growth
8 authority. The department's approval is not required for the
9 capture of taxes levied for school operating purposes for eligible
10 activities described in this section.

11 (19) In each fiscal year of the authority, the amount of tax
12 increment revenues attributable to local taxes that an authority
13 can use for the purposes described in subsection (16)(a) shall be
14 determined as follows:

15 (a) For authorities that have 5 or fewer active projects,
16 \$100,000.00.

17 (b) For authorities that have 6 or more but fewer than 11
18 active projects, \$125,000.00.

19 (c) For authorities that have 11 or more but fewer than 16
20 active projects, \$150,000.00.

21 (d) For authorities that have 16 or more but fewer than 21
22 active projects, \$175,000.00.

23 (e) For authorities that have 21 or more but fewer than 26
24 active projects, \$200,000.00.

25 (f) For authorities that have 26 or more active projects,
26 \$300,000.00.

27 (20) As used in subsection (19), "active project" means a

- 1 project in which the authority is currently capturing taxes under
- 2 this act.