

Legislative Analysis



TAX INCREMENT FINANCING AUTHORITY AMENDMENTS

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House Bill 5851 (reported from committee as H-2)
House Bill 5856 (reported from committee as H-1)
Sponsor: Rep. Lee Chatfield

House Bill 5852 (H-2) as reported
Sponsor: Rep. Lana Theis

House Bill 5854 (H-2) as reported
Sponsor: Rep. Pat Somerville

House Bill 5853 (H-2) as reported
Sponsor: Rep. Amanda Price

House Bill 5855 (H-2) as reported
Sponsor: Rep. David C. Maturen

Committee: Local Government
Complete to 10-13-16

BRIEF SUMMARY:

House Bills 5851 to 5856 would each amend a different statute dealing with tax increment financing authorities. Generally speaking, when local units of government create a tax increment financing authority, or TIFA, they establish a special district and then capture the tax revenues that stem from future increases in property values within that district for the authority to use to finance public infrastructure improvement projects, or other activities, within the district; this can include the issuance of bonds to finance projects.

Among other things, House Bills 5851 to 5855 would, generally speaking:

- Prevent the capture of revenues from millages approved by voters after December 31, 2016.
- Limit the amount of time a TIFA can hold revenues to five years, with exceptions.
- Require municipalities with TIFAs to create and regularly maintain a website with access to specified records and documents.
- Require TIFAs to hold an annual meeting with at least 20 days' public notice.
- Expand the content of the TIFA's required annual report; and require that the annual report be sent to all tax-levying units.
- Impose penalties on local units for violations of the act and repeal three tax increment finance statutes.

House Bill 5856 would contain only the provision exempting revenue from millages approved by voters after December 31, 2016, from capture. (It is an amendment to the Brownfield Redevelopment Financing Act.)

FISCAL IMPACT:

House Bills 5851 through 5856 would reduce available future revenues to tax increment financing districts subject to the provisions of the bills by prohibiting ad valorem property

taxes or specific local taxes approved by the electors after December 31, 2016, from being considered tax increment revenues. Exceptions would be made for a voter-approved Headlee override or a renewal of a millage that was originally approved prior to December 31, 2016. On the other hand, this would allow the taxing jurisdiction to realize increased revenues from future voter-approved millages when compared to the current law since the growth in the millage revenues would not be subject to capture by the TIFAs.

Lastly, the House Bills 5851 through 5855 would require municipalities to ensure that TIFA website is created, operated, and regularly maintained with TIFA records and documents for the preceding five fiscal years. Costs associated with this requirement are unknown and would depend on the municipality and authority. Presumably, the cost of creating, operating, and maintaining the reporting website would be covered under the current revenue streams of the authority since noncompliance with the reporting requirements under the provisions of the bill would result in the loss tax increment revenues that are in excess of amounts necessary to pay bonded indebtedness or other obligations. Excess funds captured would be required to be returned to the taxing jurisdictions from which they were captured.

THE APPARENT PROBLEM:

Over at least the last two legislative sessions, there has been interest in revising the statutes that govern tax increment financing authorities. There have been a variety of proposals from a variety of points of view. In September of 2014, the House Commerce committee considered House Bill 5856, which proposed changes similar to the ones in this bill package, but the bill was not reported to the full House. These bills focus on improving reporting by TIFAs and on limiting capture of future voted millages. (See ***Background Information.***)

THE CONTENT OF THE BILL:

Acts being amended

House Bill 5851 would amend the Downtown Development Authority Act (Public Act 197 of 1975). According to the act, a DDA's function is "to halt property value deterioration and increase property tax valuation where possible in its business district, to halt the causes of that deterioration, and to promote economic growth." DDAs often issue bonds to carry out their functions and use the captured tax revenue to pay the bonds.

House Bill 5852 would amend the Water Resource Improvement Tax Increment Finance Authority Act (Public Act 94 of 2008). The purpose of a water resource improvement TIFA under the act is to promote water resource improvement or access to inland lakes, or both, in a water resource district.

House Bill 5853 would amend the Local Development Financing Act (Public Act 281 of 1986). The act allows for the creation of certified technology parks, or SmartZones, which are a kind of high-technology TIF project, with the revenue to be used for a variety of

purposes, including infrastructure, construction, property purchases, marketing and promotion, and creating high-technology support facilities, among other things.

House Bill 5854 would amend the Corridor Improvement Authority Act (Public Act 280 of 2005). Under the act, cities, villages, and townships can singly or jointly create special authorities to redevelop commercial corridors that typically are at least 30 years old.

House Bill 5855 would amend the Tax Increment Finance Authority Act (Public Act 450 of 1980).

House Bill 5856 would amend the Brownfield Redevelopment Financing Act (Public Act 381 of 1996), which was established to provide funding and tax incentives for the cleanup and redevelopment of contaminated land, especially land in urban areas, so that it could become economically viable and have a chance to compete with undeveloped “greenfield” property.

House Bills 5851–5855 would each add the following provisions to their respective acts:

Excluded from the category of "tax increment revenues"

The bills would prohibit TIFAs from capturing tax revenue from ad valorem property taxes or specific local taxes levied for a millage approved by voters after December 31, 2016. (This would not apply to renewals of millages previously authorized before that date, and would not apply to Headlee Rollback Override votes under Section 34d(11) of the General Property Tax Act.)

Time limit on spending funds unless specifically provided

The bills provide that, generally, revenues must be used within five years of receipt, but may be collected for a period longer than five years if the TIF plan specifically provides (1) the reason for accumulating the funds, (2) the time frame for which the fund will be expended, and (3) the uses for which the funds will be expended.

TIFA website

Under the bills, a municipality which creates a TIFA must ensure that a website containing records and documents covering specified amounts of time is created, operated, and regularly maintained. The records include: minutes of all board meetings; annual budgets; annual audits; currently adopted development plan; currently adopted tax increment financing plans; lists of all TIFA-sponsored and managed events; current TIFA staff contact information; all promotional and marketing materials; the amount of tax increment revenue captured by each taxing jurisdiction that levies ad valorem property taxes or specific local taxes within the boundaries of the authority; and current contracts and other documents related to management of the authority.

Annual meeting

The TIFA board must also hold at least one informational meeting each year in order to present the information listed above which must also be posted on the website. At least 20 days before the meeting, notice must be (1) posted on the municipality's or TIFA's website,

and (2) mailed by the board to the governing body of each taxing jurisdiction levying taxes subject to capture by the TIFA.

Annual status report

Currently, the TIFA must submit an annual status report to the governing body of the municipality and the State Tax Commission. The bills would also require that the report be submitted to the governing body of any taxing unit levying taxes subject to capture by an authority, and that it be published in a newspaper or on the TIFA's or municipality's website. (Some of the acts currently require that the report be published in a newspaper; this would standardize the reporting either in a newspaper or website).

The following topics would also be added to the required information in the report:

- The total new public investment by the authority in each of the development areas;
- The totals received by the authority or contributions made by sponsorships, cash, and in-kind services for events, programs, and projects within each development area/authority district;
- The amounts of any funds other than tax increment revenues used by the TIFA for any projects or activities in the development areas/authority districts;
- The current assessed value of the development area;
- The captured assessed value retained by the TIFA for each taxing jurisdiction; and
- The amount of tax increment revenues used for the operation of the authority.
- (HB 5855 would also add "the tax increment revenues received" to the list of information reported; this category is already required by the other acts.)

Revenues Exempt from Capture

Recent legislation specified that the revenues from voter-approved millages levied for the Detroit Zoo and the Detroit Institute of Arts could not be captured by a DDA. The bill would add that the revenues of the Regional Transit Authority (which was created by Public Act 387 of 2012 and is intended to plan and coordinate transportation for Wayne, Oakland, Macomb, and Washtenaw counties) also could not be captured.

Penalty for violations

The bills would require the State Tax Commission to send written notification of the specific violation to a TIFA failing to comply with the act and to the governing body of the municipality that established the TIFA. A TIFA which has been notified of a violation in writing by the State Tax Commission can no longer capture any tax increment revenues in excess of those needed to pay bonded indebtedness or other obligations for the period of noncompliance, after 60 days following receipt of the notice. In such a case, excess funds would be returned to the taxing jurisdictions from which they came. (Note: In the case of a Downtown Development Authority (HB 5851), the State Tax Commission must send written notification of a violation. In HB 5852-5854, the STC may send notification. In HB 5855, there is no such provision.)

Repealers

The bill package would repeal the following acts: The Historic Neighborhood Tax Increment Finance Authority Act (PA 530 of 2004) and the Private Investment Infrastructure Funding Act (PA 250 of 2010).

House Bill 5856 would amend the Brownfield Redevelopment Financing Act (PA 67 of 2013) to include only one of the changes included in the other five bills. It would prohibit TIFAs from capturing tax revenue from ad valorem property taxes or specific local taxes levied for a millage approved by voters after December 31, 2016. (This would not apply to renewals of millages previously authorized before that date, and would not apply to Headlee Rollback votes under Section 34d(11) of the General Property Tax Act.)

BACKGROUND INFORMATION:

According to committee testimony, Michigan's 83 counties contain about 1,000 tax capture districts. These districts exist in all parts of the state, but are concentrated in the more densely populated areas, with 65 in Wayne County and 57 in Oakland County. Although statutes authorizing TIF plans require reporting to the state, there is often no enforcement or penalty for noncompliance.

The following report on TIFs in Michigan, produced by the Senate Fiscal Agency, provides additional information:

<http://www.senate.michigan.gov/sfa/publications/notes/2016notes/noteswin16dk.pdf>

The Citizens Research Council of Michigan has also produced the following report on TIFs and dedicated millages:

http://crcmich.org/PUBLICAT/2010s/2013/can_dedicated_millages_tax_increment_finance_coexist-2013.pdf

ARGUMENTS:

For:

Proponents stated that TIFAs are one of many "tools in the toolbox" for local governments, and allow municipalities to target funds to be used for specific purposes. They argue that the website, annual meeting, and reporting requirements in the bill would improve these already-helpful tools by increasing transparency and accountability for TIFAs.

Against:

Although many TIFAs operate for the purposes for which they were formed, some use the taxes they capture as they deem appropriate, which may be far from their stated purpose, say opponents. Because TIFAs operate under the broad mandate that they "promote economic growth" in a downtown or other area, the committee heard testimony that certain TIFAs have used funds to expand water parks and create a board game based on the city. Based on the goal of "promoting economic growth," TIF plans effectively divert funds from local units of government to fund projects of questionable efficacy, impact, and oversight.

Opponents argued that these proposed changes do not do nearly enough to reform TIFAs. They say that the funds diverted to fund specific—and possibly unnecessary—projects

would be better spent by the municipalities themselves, to fix roads and fund public services.

POSITIONS:

The following organizations support the bills

City of Grand Rapids (9-14-16)

Downtown Grand Rapids, Inc. (9-21-16)

Michigan Chamber of Commerce (9-21-16)

The following organizations are neutral on the bills

Department of Talent and Economic Development (9-21-16)

Northern Michigan Chamber Alliance (9-21-16)

The following organizations are opposed to the bills

Michigan Townships Association testified (9-14-16)

The Michigan Downtown Association (9-21-16)

Michigan Association of Counties (9-14-16)

The Michigan Municipal League has not taken a final position for the current version of those bills, but is opposed to the language for the elimination of special voted millages as currently written. (9-21-16)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.