

# Legislative Analysis

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## TAX INCREMENT FINANCING AUTHORITY AMENDMENTS

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**House Bills 5851 & 5856 as introduced**  
**Sponsor: Rep. Lee Chatfield**

**House Bill 5852 as introduced**  
**Sponsor: Rep. Lana Theis**

**House Bill 5854 as introduced**  
**Sponsor: Rep. Pat Somerville**

**House Bill 5853 as introduced**  
**Sponsor: Rep. Amanda Price**

**House Bill 5855 as introduced**  
**Sponsor: Rep. David C. Maturen**

**Committee: Local Government**  
**Complete to 9-13-16**

### 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 future increases in taxes 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. The bills also would 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.)

#### *Acts being amended*

House Bill 5851 would amend the Downtown Development Authority Act (Public Act 197 of 1975).

House Bill 5852 would amend the Water Resource Improvement Tax Increment Finance Authority Act (Public Act 94 of 2008).

House Bill 5853 would amend the Local Development Financing Act (Public Act 62 of 2013).

House Bill 5854 would amend the Corridor Improvement Authority Act (Public Act 68 of 2013).

House Bill 5855 would amend the Tax Increment Finance Authority Act (Public Act 322 of 1993).

House Bill 5856 would amend the Brownfield Redevelopment Financing Act.

**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.)

***Specific local tax***

The bills would add the recently enacted state essential services assessment (MCL 211.1055) and the alternative state essential services assessment (MCL 211.1075, to the definition of "specific local tax." The specific taxes included in this definition vary from act to act. Generally speaking, "specific taxes" are levied in lieu of property taxes as part of property tax abatement programs. The essential services assessment specific tax was created as part of the personal property tax phase-out. (See ***Fiscal Impact***.)

***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.)

### ***Penalty for violations***

The bills would permit the State Tax Commission to send written notification of a 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. 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), the Neighborhood Improvement Authority Act (PA 61 of 2007) 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.)

## **FISCAL IMPACT:**

House Bills 5851 through 5855 would include the state essential services assessment and the alternative state essential services assessment in the definition of specific local tax subject to capture by tax increment finance authorities (TIFA). Therefore, a TIFA subject to the provisions of the bills could begin capturing growth in the essential services assessment in the development area. This provision would reduce State General Fund revenues by an unknown amount since 100% of the essential services assessment revenues are deposited in the State General Fund. On the other hand, the inclusion of the essential services assessment as a capturable tax would offset some of the loss in revenues to the TIFAs that resulted from the personal property tax reform. The essential services assessment was implemented to partially offset the loss of state use tax revenue now levied by the Local Community Stabilization Authority under the personal property tax reform.

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. The exceptions would be 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.

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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.