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TAX INCREMENT FINANCING AMENDMENTS

Senate Bill 909 (Substitute H-2)
First Analysis (12-6-88)

Sponsor: Sen. Rudy Nichols
Senate Committee: Finance
House Committee: Taxation

THE APPARENT PROBLEM:

Michigan communities may implement tax increment financing plans under three different public acts: Public Act 197 of 1975, the downtown development authority act; Public Act 450 of 1980, the Tax Increment Finance Authority Act; and Public Act 281 of 1986, the Local Development Financing Act. While Public Act 281 of 1986 provides uniform procedures for calculating tax increment financing, local governments still vary in their calculation practices, depending on which act their plan falls under. Under the downtown development authority act and the Tax Increment Finance Authority Act, for example, most tax increment finance plans calculate tax increments on abated property using the full state equalized value (SEV) of new facilities that have tax abatements. Because abatements reduce the tax base, the captured value in tax increment finance plans should reflect this lower base. The Local Development Financing Act solves this problem by defining the assessed value of property subject to a specific local tax (that is, the tax paid on the abated property in lieu of full property taxes) as equal to the specific local tax paid, divided by the ad valorem millage rate. This defines the base for new abated facilities as half the SEV. For consistency, the two earlier tax increment finance acts — the downtown development authority act and the Tax Increment Finance Authority Act — need to be amended to include the provisions of the new act. Making the definition of a specific local tax consistent would also provide consistent treatment to abatements granted under the Technology Park Development Act, which are omitted currently from calculations under the Tax Increment Finance Authority Act.

In addition, the Tax Increment Finance Authority Act needs to be amended to stop reported abuses by some local governments. Some tax increment finance plans, for example, exclude all millage except in-formula school district millage. Since the cost of capturing taxes of an in-formula district is borne by the state, while the capture of other taxes is borne by the affected local governmental unit, the entire plan is then subsidized by the state. Tax increment finance plans should require that the proportion of school taxes captured not be greater than the proportion of other local taxes levied for operating purposes.

THE CONTENT OF THE BILL:

The bill would amend the Tax Increment Finance Authority Act to:

- Adopt the definitions of "captured assessed value," "initial assessed value," and "specific local tax" found in the Local Development Finance Act. This would have the effect of defining the tax base of abated properties at one-half of SEV instead of at full SEV. It would also have the effect of including abated properties with technology park facilities exemptions.
- Require the State Tax Commission to prescribe the method for calculating captured assessed value (as is the case in the Local Development Financing Act). The commission could also institute proceedings to compel enforcement of the act, and could promulgate rules to administer the act. Tax increment authorities would have to file a copy of their annual reports with the commission.
- Provide that the percentage of taxes levied for school operating purposes that was captured and used by a plan could not exceed the percentage of any other tax levied for operating purposes that was captured and used by the plan.

The bill's provisions would be effective beginning with taxes levied in 1989.

MCL 125.1813 and 125. 1814

HOUSE COMMITTEE ACTION:

The House Taxation Committee reported a substitute that makes the definitions in the bill consistent with those in the Local Development Financing Act and those in House Bill 5609, which would amend the downtown development authority act. The substitute is similar in substance to the Senate-passed bill.

FISCAL IMPLICATIONS:

There is no specific information at present. The Department of Treasury has indicated (in evaluating a similar bill, House Bill 5609, which would amend the downtown development authority act) that the provision requiring equal treatment of school taxes and other local taxes should produce slight savings to the school aid fund. A September 1988 report on tax increment financing issued by the treasury department said that the change in treatment of abated property would affect the tax increment in 19 existing plans, raising the increment in 6 and lowering it in 13.

ARGUMENTS:

For:

The bill would eliminate some inconsistencies between the Tax Increment Finance Authority Act and the Local Development Financing Act by incorporating provisions regarding various financing calculations and state supervision from the latter into the former. In particular, the bill would make plans operating under the TIFA Act take into account the effect of abatements granted to new facilities on the tax base and tie the captured assessed value of a TIFA plan to the tax base on which local revenue is actually generated. The bill would also require that the proportion of school taxes captured not be greater than the proportion of other local operating taxes captured. This would prevent a community from (for example) capturing only operating taxes of an in-formula school district and making the state school aid fund make up the difference, thus creating a state-subsidized TIFA. Reportedly, this is taking place in at least one municipality.

POSITIONS:

There are no positions at present.