



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 992 and 993 (as introduced 5-1-96)
House Bill 5072 (Substitute H-3 as passed by the House)
Sponsor: Senator Mat J. Dunaskiss (Senate Bill 992)
 Senator Leon Stille (Senate Bill 993)
 Representative Gregory E. Pitoniak (House Bill 5072)
Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 5-8-96

CONTENT

The bills would amend several acts to enable tax increment finance authorities, downtown development authorities, and local development finance authorities (referred to below as “TIFAs”) to refund obligations for which State and local school tax revenue may be captured, without losing that revenue as a result of the refunding; and to refund obligations that are eligible for State appropriations (commonly called “hold harmless” distributions), without compromising that eligibility. A TIFA could issue or incur such a “qualified refunding obligation” only if, generally speaking, it would have the effect of reducing the amount of principal and interest to be paid on the obligation being refunded, as well as the amount of school tax revenue captured by the TIFA and the amount of hold harmless distributions needed from State to repay the obligation being refunded. If a TIFA could achieve a saving by refunding a bond or note and did not make a good faith effort to do so, the State Treasurer could reduce the amount of the authority’s hold harmless distributions or the amount of school tax increment captured.

Senate Bill 992 would amend the downtown development authority Act. Senate Bill 993 would amend the Local Development Financing Act. House Bill 5072 (H-3) would amend the Tax Increment Finance Authority Act. The bills are described in detail below.

Under the Acts, TIFAs are permitted to “capture” the growth in tax revenue in a designated development area for improvements to a variety of public facilities, such as streets, parks, parking facilities, and recreational facilities. These improvements typically are financed through bond issues that are paid off out of the tax revenue growth. Since school financing reform measures reduced local property taxes following the approval of Proposal A in March 1994, TIFAs have been allowed to capture State and local school taxes as necessary to repay “eligible advances”, “eligible obligations”, and “other protected obligations” (which, generally, must have been made or incurred before August 19, 1993). In addition, the Legislature is required to appropriate funds to a TIFA if the reduction in taxes as a result of school finance reform makes the captured tax increment revenue insufficient to repay an eligible advance or eligible obligation (hold harmless distributions). Although a municipality may issue refunding bonds to retire existing bonds or repay existing obligations, it may not capture school taxes or receive hold harmless distributions to pay for the refunding bonds.

The bills would amend the Acts' definitions of "eligible obligation" and "other protected obligation" to include qualified refunding obligations, and would authorize TIFAs to issue bonds to refund bonds "in advance".

Currently, the Acts define "eligible obligation" as an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993. The bills would add, "and its subsequent refunding by a qualified refunding obligation".

The Acts' current definitions of "other protected obligation" include an obligation issued to refund a bond or note that is an eligible obligation, or an obligation that was issued or incurred after August 19, 1993, and that meets certain criteria (or, under the downtown development authority Act, an obligation to purchase or develop certain real estate purchased in 1993). Under the bills, "other protected obligation" would mean a qualified refunding obligation issued to refund an obligation described in the current definitions (concerning an obligation incurred after August 19, 1993, or property purchased in 1993), or an obligation that was not a qualified refunding obligation that was issued to refund an eligible obligation, or a qualified refunding obligation issued to refund a bond or note described in this provision.

The bills would define "qualified refunding obligation" as an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the refunding obligation met both of the following, as calculated using a method approved by the Department of Treasury:

- The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, would be less than the net present value of the principal and interest to be paid on the obligation being refunded.
- The net present value of the sum of the tax increment revenues from State and local school taxes and distributions from the State to repay the refunding obligation would be less than the net present value of the sum of those tax increment revenues and distributions to repay the obligation being refunded.

The bills also would amend the definitions of "obligation" to specify that an obligation would not include "those bonds that have been economically defeased by refunding bonds issued under this act".

Currently, an authority that is eligible to receive a hold harmless distribution for a fiscal year must file a claim for distribution with the Department of Treasury at least 30 days before the first day of the fiscal year. Under the bills, an authority would have to file a claim if it were eligible for a hold harmless distribution or eligible to retain tax increment revenues from State or local school taxes. Under the Acts, a claim must contain certain information, including a list of eligible obligations and eligible advances and the payments due on each. The bills would require a claim to include documentation, as well as a list, of these items.

Each bill provides that, notwithstanding any other provision of the Act, if the State Treasurer determined that an authority or municipality could achieve a net present value saving by refunding a bond or note issued under the Act and the authority or municipality did not make a good faith effort to do so, the Treasurer could reduce the amount claimed by the authority or municipality by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the bond or note, or the Treasurer could require a reduction in the capture of tax increment revenues from school taxes by an amount equal to the saving that would have been realized. The bills specify that this provision would not authorize the State Treasurer to

require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

The Acts provide that, by resolution of its governing body, an authority may authorize, issue, and sell tax increment bonds to finance a development program, and the downtown development authority Act permits an authority to sell bonds to refund these bonds. Senate Bill 993 and House Bill 5072 (H-3) also would permit a local development finance authority and a tax increment finance authority to issue refunding bonds. All of the bills would permit an authority to issue bonds to “refund in advance” bonds issued under these provisions.

In addition, the Senate bills would define “assessed value” as one of the following:

- For valuations made before January 1, 1995, the State equalized valuation as determined under the General Property Tax Act.
- For valuations made after December 31, 1994, the taxable value as determined under Section 27a of the General Property Tax Act (which implements the constitutional assessment cap pursuant to Proposal A).

MCL 125.1651 et al. (S.B. 992)
125.2152 et al. (S.B. 993)
125.1801 et al. (H.B. 5072)

Legislative Analyst: S. Margules

FISCAL IMPACT

Local units, in which TIFAs refund bonds, and the State would realize decreased costs associated with refunding of the bonds. The saving would depend on the interest rate of the current bonds and the lower interest rate obtained.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.