House
Legislative
Analysis
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ELIGIBLE TIFA PROJECTS

House Bill 5121 as enrolled
Public Act 1 of 1998
Sponsor: Rep. Tom Alley
House Committee: Tax Policy
Senate Committee: Finance (Discharged)

Senate Bills 698 and 699 as enrolled
Public Acts 201 and 202 of 1997
Sponsor: Sen. Bill Schuette
Senate Committee: Economic Development, International Trade, and Regulatory Affairs
House Committee: Tax Policy

Second Analysis (8-7-98)

THE APPARENT PROBLEM:

With the passage of Proposal A in 1994, local school property taxes have been significantly reduced, and school taxes are no longer available for capture by tax increment finance authorities (or TIFAs). This kind of local authority (which includes downtown development authorities and local development finance authorities) had been authorized by statute to capture the growth in tax revenue in a designated development area for use in financing a wide variety of public improvements. In recognition of the effect the new tax system would have on existing TIFAs and on projects then in the "pipeline", the legislature permitted the capture of state and local school taxes in the amount needed to cover existing and pipeline financing obligations and also required state reimbursement in cases where the payment of existing obligations could not be met due to property tax reductions. Generally speaking, the protected bond issues were those issued before August 19, 1993 (known as "eligible obligations") and those issued after that date but before December 31, 1994 and stemming from TIFA plans approved before August 19, 1993 (known as "other protected obligations").

In several instances around the state, questions have arisen about whether certain existing TIFA-related arrangements meet the technical requirements of the statutes passed to allow for the continued capture of school taxes. Legislation has been developed to address these special instances, reportedly in Gladwin, Pinconning, Auburn Hills, and Howell.

THE CONTENT OF THE BILLS:

House Bill 5121 would amend the definition of "eligible obligation" in the Local Development Financing Act (MCL 125.2152 and 125.2161a) to include an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 19, 1993 and before December 31, 1996 by another entity on behalf on the authority. It also would make other related technical amendments.

Senate Bill 698 would amend the Tax Increment Financing Authority Act (MCL 125.801 et al.) and Senate Bill 699 would amend the Downtown Development Act (MCL 125.1651 et al.) to amend the definition of "other protected obligation."

In Senate Bill 698, that term would be amended to apply to an obligation issued or incurred by a municipality under a contract executed on December 19, 1994 as subsequently amended between the municipality and the authority to implement a project described in a TIFA plan approved by the municipality before August 19, 1993, for which a contract for final design was entered into by the municipality before March 1, 1994 provided that final payment is made by the municipality on or before December 31, 2001.

In Senate Bill 699, that term would apply to:

1) a loan from a municipality to an authority if the loan was approved by the legislative body of the municipality on April 18, 1994.

2) funds expended to match a grant received by a municipality on behalf of an authority for sidewalk improvements from the Department of Transportation if the legislative body of the municipality approved the grant application on April 5, 1993 and the grant was received by the municipality in June 1993.

3) for taxes captured in 1994, an obligation issued or incurred to finance a project where the obligation requires raising capital for the project or paying for the project, whether or not a borrowing is involved; the obligation was part of a development plan and the tax increment financing plan was approved by a municipality on May 6, 1991; the obligation is in the form of a written memorandum of understanding between a municipality and a public utility dated October 27, 1994; and the authority or municipality captured school taxes during 1994.

Also in Senate Bill 699, the term "eligible obligation" would be amended to include an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

Both bills would make some technical amendments to move language regarding the reporting of "other protected obligations"to the Department of Treasury from one place in the act to another and to insert a provision allowing the State Tax Commission to base reimbursement calculations and calculations of allowable capture of school taxes for each calendar year's tax increment revenues using a 12-month debt payment period used by an authority and approved by the commission.

All three bills state that their provisions are retroactive and effective for taxes levied after 1993.

FISCAL IMPLICATIONS:

As the Senate Fiscal Agency points out, the bills would allow a municipality or authority to capture school taxes if they met the definition in the bills. (SFA analysis dated 1-21-98)

ARGUMENTS:

For:

Supporters say that the bills would clarify cases where there are disputes between local officials and the state over the eligibility of certain existing TIFA-style arrangements to capture school tax revenues. The bills would address cases in four Michigan communities so that tax increment authorities there could capture school tax revenue to support worthy ongoing projects that otherwise might be jeopardized.

Against:

It would be a bad precedent to make exceptions to allow the capture of school revenues by tax increment finance authorities not now permitted to do so.

Analyst: C. Couch

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