

Legislative Analysis



HISTORIC NEIGHBORHOOD TIFA

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Senate Bill 1202 with House committee amendment

Sponsor: Sen. Bill Hardiman

House Committee: Land Use and Environment

Senate Committee: Commerce and Labor

First Analysis (12-7-04)

BRIEF SUMMARY: The bill would create the "Historical Neighborhood Tax Increment Finance Authority Act" to, among other things, authorize a city in which a historic district is located to create a historical neighborhood tax increment finance authority. The authority would be run by a board comprising the city's chief executive officer and five to nine members appointed by the chief executive, subject to the approval of the city's governing board. The board would be empowered to provide for the financing of authority activities, including borrowing money and issuing bonds. The board also would prepare, and then submit to the city's governing body, a tax increment financing plan, which would have to include a development plan for the authority's development area.

FISCAL IMPACT: Initially, this bill would increase local unit of government expenses to create a Historical Neighborhood Tax Increment Finance Authority. However, this amount is not determinable, nor is the number of local units that would choose to create such authorities. The impact on the State of Michigan government is negligible in the short run.

In the future, this bill allows local units to use taxes arising from the increased property values to pay for improvements to the historic neighborhood. These improvements, which would include housing, streets, pedestrian malls, and many other public facilities, could be financed initially through bonding, which would be repaid from the enhanced property tax revenue stream. The bill also provides for the condemnation of property with the historic neighborhood, potentially giving rise to lawsuits from displaced owners and renters. Although the concept of tax increment financing is well established for the development of commercial and industrial areas, the expansion of this concept to historic neighborhoods is new. Therefore, the long term fiscal impact on both local units of government and the State of Michigan government is not determinable.

THE APPARENT PROBLEM:

Tax increment financing (TIF) and similar economic development tools are designed to "capture" the tax revenue from the incremental growth in property value within a district. The money is then set-aside by local officials to use when financing a variety of public improvements in that area. Customarily, these kinds of programs have been used in commercial and industrial areas to foster economic development in a community. Some believe that the preservation of historical neighborhoods also is important to creating and

maintaining economic vitality in cities. They propose cities also should be authorized to adopt TIF plans in their historic residential areas, and offer legislation to achieve that end.

THE CONTENT OF THE BILL:

The bill would create the "Historical Neighborhood Tax Increment Finance Authority Act" to do all of the following:

-- Authorize a city in which a historic district was located to create a historical neighborhood tax increment finance authority under certain circumstances, by passing a resolution after providing notice and holding a public hearing.

-- Provide for the supervision and control of an authority by a board that included the city's chief executive officer and five to nine members appointed by the chief executive, subject to the approval of the city's governing board.

-- Specify an authority board's powers.

-- Provide for the financing of authority activities, including borrowing money and issuing bonds.

-- Allow an authority to prepare and submit to the city's governing body a tax increment financing plan, which would have to include a development plan for the authority's development area.

-- Allow a city and an authority to authorize, issue, and sell bonds to finance a TIF plan's development program.

-- Specify requirements for a development plan, including providing assistance to people displaced by the plan.

-- Require that a person to be relocated be given at least 90 days' written notice to vacate, unless modified by a court order issued for good cause and after a hearing.

-- Specify requirements for an authority's budget approval process.

-- Require that a city dissolve an authority after it has completed its purpose, and provide that the authority's property and assets remaining after the satisfaction of its obligations would belong to the city.

-- Authorize the State Tax Commission to institute proceedings to enforce the proposed act and to promulgate rules for its administration.

Historical neighborhood TIF authority. The governing body of a city that contained a historic district could declare its intention to create and provide for the operation of a historical neighborhood tax increment finance authority within the boundaries of a

historic district if it determined that doing so was necessary for the public's best interests to halt property value deterioration and increase property tax valuation where possible in a residential district, eliminate the causes of that deterioration, and promote residential growth and economic growth. A city could establish multiple authorities inside a historic district, but a parcel of property could not be included in more than one.

In the resolution of intent, the governing body would have to set a date for a public hearing on the adoption of an ordinance that proposed creating an authority and designated the boundaries of a development area (an area to which a development plan applied, that was located in a historic district). The bill specifies notice requirements for a public hearing, including published notice in a newspaper of general circulation in the city, mailed notice to property taxpayers of record in the proposed development area, and mailed notice to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority were established and a tax increment financing plan were approved.

If the city's governing body intended to proceed, at least 60 days after the hearing it would have to adopt an ordinance establishing the authority and designating the boundaries of the development area within which the authority would exercise its powers. The governing body could alter or amend the development area's boundaries to include or exclude parcels of land in the same manner as adoption of the ordinance creating an authority.

If the development area were part of an area annexed to or consolidated with another city, the authority managing the development area would become an authority of the annexing or consolidated city.

Authority board. An authority would be under the supervision and control of a board that consisted of the city's chief executive officer (mayor or city manager) or his or her designee and not less than five or more than nine members determined by the city's governing body. Members would be appointed by the city's chief executive officer, subject to approval by the city's governing body.

People having an ownership or business interest in property located in the development area would have to make up at least a majority of the board members, and at least one member would have to be a resident of the development area or live within one-half of a mile of it. Board members would serve staggered terms and vacancies would be filled by appointment of the city's chief executive. Members would serve without compensation but could be reimbursed for actual and necessary expenses. The board would have to elect its chairperson. The board would be subject to the Open Meetings Act and the Freedom of Information Act.

The board could employ a director and fix his or her compensation, subject to approval of the city's governing body. The director would have to attend board meetings and give the board and the city's governing body a regular report on the authority's activities and financial condition. The board also could employ and fix the compensation of a treasurer,

a secretary, and other personnel that it considered necessary. An authority's employees would be eligible to participate in municipal retirement and insurance programs as if they were civil service employees.

Board powers. An authority board could do any of the following:

- Prepare an analysis of economic changes taking place in the development area.
- Study and analyze the impact of metropolitan growth upon the development area.
- Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit for a plan that the board believed aided in the development area's residential and economic growth.
- Develop long-range plans, in cooperation with the historic district commission and the city's planning agency, that were designed to halt the deterioration of property values and promote residential and economic growth in the development area and take steps to persuade property owners to implement the plans.
- Implement in the development area any plan of development, including low-income housing, that was necessary to achieve the purposes of the proposed Act.
- Make and enter into contracts to exercise its powers and the performance of its duties.
- Acquire, own, convey, or otherwise dispose of, or lease land and other real or personal property necessary to achieve the purposes of the proposed act, and to grant or acquire licenses, easements, and options.
- Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, clear, improve, maintain, repair, and operate any public facility, building (including multiple-family dwellings), and any necessary or desirable appurtenances, within the development area for a public or private use.
- Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property it controlled and pledge the collections for the payment of revenue bonds issued under by the authority.
- Accept from public and private sources, grants and donations of property, labor, or other things of value.
- Acquire and construct public facilities.

("Public facility" would mean housing; a street, plaza, or pedestrian mall, and any improvements to them; park; parking facility; recreational facility; right of way;

structure; waterway; bridge; lake; pond; canal; utility line or pipe; or building, including access routes designed and dedicated to public use or used by a public agency.)

A city could acquire private property under Public Act 149 of 1911, which provides for the acquisition of private property for public use or benefit, or under the Uniform Condemnation Procedures Act, for the purposes of transfer to an authority for use in an approved development. The taking, transfer, and use would be considered necessary for public purposes and for the benefit of the public.

Authority financing. An authority's activities would have to be financed from one or more of the following sources: donations to the authority for the performance of its functions; money borrowed and to be repaid, as specified in the bill; revenue from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to limitations imposed on the authority by trusts or other agreements; proceeds of a tax increment financing plan established under the bill; proceeds from a special assessment district created as provided by law and money obtained from other sources approved by the city's governing body or otherwise authorized by law for use by the authority or the city to finance a development program.

Except as otherwise provided, the city could not obligate itself, and could not be obligated, to pay any sums from public funds for or on account of the authority's activities, other than money received pursuant to the bill for that purpose.

Borrowing and bonding. At the request of an authority, a city could borrow money and issue its notes under the Revised Municipal Finance Act in anticipation of collection of the ad valorem tax authorized in the bill.

An authority could borrow money and issue its negotiable revenue bonds under the Revenue Bond Act. The revenue bonds would not be a debt of the city unless the city, by majority vote of its governing body, pledged its full faith and credit to support the bonds. Revenue bonds issued by an authority would never be a debt of the state.

With approval of the city's governing body, an authority could borrow money and issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing property in connection with either the implementation of a development plan in the development area or the refund of bonds or notes issued under the bill.

An authority could finance any of the following by issuing revenue bonds or notes: the cost of buying, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with a development plan in the development area; any engineering, architectural, legal, accounting, or financial expenses; the costs necessary or incidental to borrowing money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues had developed.

An authority could secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenue, or income received in connection with the property. Bonds or notes issued under the bill would be exempt from taxes in this state, except for inheritance and transfer taxes, and the interest on the bonds or notes would be tax exempt in this state, even if subject to federal income tax.

An authority's bonds or notes could be invested in by all public officers, State agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees. The bonds or notes also could be deposited with and received by all public officers and agencies and political subdivisions for any purpose for which the deposit of bonds was authorized.

Tax increment financing. If an authority determined that doing so was necessary to achieve the purposes of the proposed act, it could prepare and submit a tax increment financing plan to the city's governing body. The plan would have to include a development plan, a detailed explanation of the TIF procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the TIF program. The plan would have to include a statement of the estimated impact of the TIF plan on the assessed values of all taxing jurisdictions in which the development area was located, and could provide for the use of part or all of the captured assessed value. The authority or the city could exclude from captured assessed value the growth in property value resulting solely from inflation.

Approval of a TIF plan would have to comply with the bill's notice, hearing, and disclosure provisions for the adoption of a development plan. If the development plan were part of the TIF plan, only one hearing and approval procedure would be required.

Before a public hearing on a TIF plan, the city's governing body would have to provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority would have to inform those jurisdictions of the fiscal and economic implications of the plan. The taxing jurisdictions could present their recommendations at the public hearing. The authority could enter into agreements with the taxing jurisdictions and the city's governing body to share a portion of the captured assessed value of the development area. Within 60 days after the public hearing, a taxing jurisdiction's governing body could exempt its taxes from capture by adopting a resolution and filing a copy of it with the city clerk.

Municipal and county treasurers would have to transmit tax increment revenues to the authority. The authority would have to spend the revenue for the development program under the terms of the TIF plan.

Annually, an authority would have to submit to the city's governing body and the state tax commission a report on the status of the TIF account, including information regarding sources of revenue, amount and purpose of expenditures, the amount of principal and interest on any outstanding bonded indebtedness, the initial assessed value of the project

area that captured assessed value retained by the authority, the amount of public housing created or improved, and the number of jobs created as a result of implementing the plan.

A city, by resolution and subject to voter approval, could authorize, issue, and sell general obligation bonds to finance the TIF plan's development program, and would have to pledge its full faith and credit for the payment of the bonds.

By resolution of the board, an authority could authorize, issue, and sell tax increment bonds to finance the TIF plan's development program. Bonds issued in this manner could be secured by any other revenue identified as a source of financing for the authority's activities. The full faith and credit of the city could not be pledged to secure these bonds.

Development plan. If a board decided to finance a project in a development area by the use of revenue bonds or tax increment financing, it would have to prepare a development plan. The development plan would have to include all of the following:

- The designation of the development area's boundaries.
- The location and extent of existing streets and other public facilities within the development area, designating location, character, and the current and proposed extent of public and private land uses.
- A description of existing improvements in the development area to be demolished, repaired, or altered; a description of any repairs and alterations; and an estimate of the time required for completion.
- The location, extent, character, and estimated cost of improvements.
- A statement of the planned construction or stages of construction, and the estimated time of completion of each stage.
- A description of any parts of the development area to be left as open space and the use contemplated for the space.
- A description of any portions of the development area that the authority wanted to sell, donate, exchange, or lease to or from the city and the proposed terms.
- A description of desired zoning changes and changes in streets, street levels, intersections, or utilities.
- An estimate of the cost of development, a statement of the proposed method of financing, and the ability of the authority to arrange the financing.
- Designation of the person or persons to whom development was to be leased, sold, or conveyed and for whose benefit the project was being undertaken.

-- The procedures for bidding for the lease, purchase, or conveyance of the development.

-- Estimates of the number of people residing in the development area and the number of families and individuals to be displaced; and a survey of those people to be displaced if occupied residences were designated for acquisition and clearance. -- A plan for establishing priority for the relocation of displaced people in any residential housing in the development area.

-- Provision for the costs of relocating displaced people, including litigation expenses and expenses incident to the transfer of title, in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

-- A plan for compliance with Public Act 227 of 1972, which provides for financial assistance and other services for people displaced by a state agency's acquisition of real property.

-- The requirement that amendments to an approved development plan or TIF plan be submitted to the city's governing body for approval or rejection.

-- Other material that the authority, local public agency, or city's governing body considered pertinent.

Before adopting an ordinance approving a development plan or a TIF plan, the city's governing body would have to hold a public hearing. Notice of the hearing would have to be published, posted, and mailed as specified in the bill. At the hearing, the governing body would have to provide an opportunity for interested people to speak and receive and consider written communications. After the hearing, the city's governing body would have to determine whether the development plan or the TIF plan constituted a public purpose. If it so determined, the governing body would have to approve or reject the plan, or approve it with modification based on criteria specified in the bill.

Authority budget. The director of an authority would have to submit to the board a budget for authority operations for each fiscal year, before the beginning of the fiscal year. After review by the board, the budget would have to be submitted to the city's governing body, which would have to approve the budget before the authority board could adopt it. Unless authorized by the city's governing body or the proposed Act, city funds could not be included in the authority's budget.

HOUSE COMMITTEE ACTION:

The House Committee on Land Use and Urban Policy added one amendment to the Senate-passed version of the bill. That amendment would require the tax increment finance authority board to develop its long-range plans in cooperation with the historic district commission, as well as with the municipal planning agency. The Senate-passed version of the bill requires the board to work in cooperation only with the municipal planning agency. Information in this analysis is derived from the Senate Fiscal Agency's analysis dated 6-17-04.

BACKGROUND INFORMATION:

As of April 2003, 59 historic district commissions had been established in Michigan communities, ranging from Detroit and Farmington Hills to Hart and Boyne City.

ARGUMENTS:

For:

The bill would provide cities with a much-needed economic development tool to develop neighborhoods, increase property values and property tax revenues, and attract new residents and businesses. Tax increment financing is a proven method for a community to create a revenue stream to invest in its own development and has long been used for economic development in commercial and industrial areas. While the development of new and expanded business and industrial activity is highly beneficial to a community, thriving residential areas also are an essential component of economic vitality in cities. Making a city a more attractive place to live can influence the decision of a business to remain, locate, or expand in a particular area. Historic neighborhoods also can draw residents and tourists who will shop, dine, and otherwise conduct business in the city. Enhancing residential areas, then, also would encourage economic growth. By authorizing cities with historic districts to create historical neighborhood tax increment finance authorities and use TIF programs, the bill would provide a mechanism for a city to reverse problems with property deterioration in historic neighborhoods and promote residential growth and economic development in the community.

Against:

The bill should be amended to protect the tax-based operating revenue of public libraries that have separately voted operating millages. The officials on these library boards of directors should be able to 'opt out' of any TIF district that might be created by an historical neighborhood tax increment financing authority.

POSITIONS:

The Michigan Environmental Council supports the bill. (12-1-04)

The Michigan Home Builders Association supports the bill. (12-1-04)

The Michigan Municipal League supports the bill. (12-1-04)

The Michigan Association of Counties supports the bill. (12-1-04)

The Michigan Libraries Association would support the bill with an amendment. (12-1-04)

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■ 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.