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BILL ANALYSIS



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Senate Bill 1202 (as enrolled)
Sponsor: Senator Bill Hardiman
Senate Committee: Commerce and Labor
House Committee: Land Use and Environment

PUBLIC ACT 530 of 2004

Date Completed: 1-26-05

RATIONALE

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, for use in financing a variety of public improvements in that area. These programs generally have been used in commercial and industrial areas to foster economic development in a community. It was suggested that the preservation of historical neighborhoods also is important to creating and maintaining economic vitality in cities and townships, and that these municipalities be authorized to adopt TIF plans in their historical residential areas.

CONTENT

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

- Authorize a city or township in which a historic district is located to create a historical neighborhood tax increment finance authority under certain circumstances, by adopting an ordinance.
- Provide for the supervision and control of an authority by a board that includes the city's or township's chief executive officer and five to nine members appointed by the chief executive, subject to the approval of the municipality'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 municipality's

governing body a tax increment financing plan, which must include a development plan for the authority's development area.

- Allow a city or township 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 a city or township to dissolve an authority after the authority completed its purpose, and provide that the authority's property and assets remaining after the satisfaction of its obligations will belong to the city or township.
- Authorize the State Tax Commission to institute proceedings to enforce the Act, and to promulgate rules for its administration.

The bill took effect on January 3, 2005.

Historical Neighborhood TIF Authority

The governing body of a city or township that contains a historic district may 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 determines that doing so is 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 or township may establish multiple authorities inside a historic district, but a parcel of property may not be included in more than one.

In the resolution of intent, the governing body must set a date for a public hearing on the adoption of a proposed ordinance creating an authority and designating the boundaries of a development area (an area to which a development plan applies, that is located in a historic district). The bill specifies notice requirements for a public hearing, including published notice in a newspaper of general circulation, 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 will be subject to capture if the authority is established and a tax increment financing plan is approved.

If the city's or township's governing body intends to proceed, at least 60 days after the hearing it must adopt an ordinance establishing the authority and designating the boundaries of the development area within which the authority will exercise its powers. The governing body may 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 is part of an area annexed to or consolidated with another municipality, the authority managing the development area will become an authority of the annexing or consolidated municipality.

Authority Board

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

subject to approval by the municipality's governing body.

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

The board may employ a director and fix his or her compensation, subject to approval of the city's or township's governing body. The director must attend board meetings and give the board and the governing body a regular report on the authority's activities and financial condition. The board also may employ and fix the compensation of a treasurer, a secretary, and other personnel whom it considers necessary. An authority's employees are eligible to participate in municipal retirement and insurance programs as if they were civil service employees.

Board Powers

An authority board may 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 believes will aid in the development area's residential and economic growth.
- Develop long-range plans, in cooperation with the historic district commission and the municipality's planning agency, that are 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 is necessary to achieve the purposes of the Act.
- Make and enter into contracts to exercise the board's 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 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 the board controls and pledge the collections for the payment of revenue bonds issued 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" means housing; a street, plaza, or pedestrian mall, and any improvements to it; 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 or township may 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, and may transfer the property to the authority for use in an approved development. The taking, transfer, and use must be considered necessary for public purposes and for the benefit of the public.

Authority Financing

An authority's activities must 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.
- Money obtained from other sources approved by the city's or township's governing body or otherwise authorized by law for use by the authority or the municipality to finance a development program.

Except as otherwise provided, the city or township may not obligate itself, and may 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 & Bonding

At the request of an authority, a city or township may 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 may borrow money and issue its negotiable revenue bonds under the Revenue Bond Act. The revenue bonds will not be a debt of the city or township unless the municipality, by majority vote of its governing body, pledges its full faith and credit to support the bonds. Revenue bonds issued by an authority will never be a debt of the State.

With approval of the city's or township's governing body, an authority may 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 may 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.
- A reserve for operation and maintenance until sufficient revenue has developed.

An authority may 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 are exempt from taxes in this State, except for inheritance and transfer taxes, and the interest on the bonds or notes is tax exempt in this State, even if subject to Federal income tax.

An authority's bonds or notes may 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 may be deposited with and received by all public officers and agencies and political subdivisions for any purpose for which the deposit of bonds is authorized.

Tax Increment Financing

If an authority determines that doing so is necessary to achieve the purposes of the Act, it may prepare and submit a tax increment financing plan to the city's or township's governing body. The plan must 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 also must include a statement of the estimated impact of the TIF plan on the assessed values of all taxing jurisdictions in which the development area is located, and may provide for the use of part or all of the captured assessed value. The authority or the municipality may exclude from captured assessed value the

growth in property value resulting solely from inflation.

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

Before a public hearing on a TIF plan, the city's or township's governing body must provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority must inform those jurisdictions of the fiscal and economic implications of the plan. The taxing jurisdictions may present their recommendations at the public hearing. The authority may enter into agreements with the taxing jurisdictions and the 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 may exempt its taxes from capture by adopting a resolution and filing a copy of it with the city or township clerk. If that governing body levies a separate millage for public library purposes, that millage will be exempt from the capture at the request of the public library board.

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

Annually, an authority must submit to the city's or township'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, the 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 or township, by resolution and subject to voter approval, may authorize, issue, and sell general obligation bonds to finance the TIF plan's development program, and must pledge its full faith and credit for the

payment of the bonds. The city or township must comply with requirements in the bill regarding an estimate of the tax increment revenue and other revenue available for payment of the principal and interest on the bonds.

By resolution of its governing body, an authority may authorize, issue, and sell tax increment bonds to finance the TIF plan's development program. The bonds must pledge the tax increment revenue of a development area in which the project is located or a development area from which tax increment revenue may be used for the project, or both. In addition or instead, the bonds may 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 or township, however, may not be pledged to secure these bonds.

Development Plan

If a board decides to finance a project in a development area by the use of revenue bonds or tax increment financing, it must prepare a development plan. The development plan must 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 wants to sell, donate, exchange, or lease to or from the municipality 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 the development is to be leased, sold, or conveyed and for whose benefit the project is 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 are 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 municipality's governing body for approval or rejection.
- Other material that the authority, local public agency, or governing body considers pertinent.

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

Authority Budget

The director of an authority must 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 must be submitted to the municipality's governing body, which must approve the budget before the authority board may adopt it. Unless authorized by the governing body or the Act, city or township funds may not be included in the authority's budget.

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ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill provides cities and townships with a much-needed economic development tool to develop neighborhoods, increase property values and property tax revenue, 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 or township 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 or township. Enhancing residential areas, then, also will encourage economic growth. By authorizing cities and townships with historic districts to create historical neighborhood tax increment finance authorities and use TIF programs, the bill provides a mechanism to reverse problems with property deterioration in historic neighborhoods and promote residential growth and economic development in the community.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill will increase local unit expenses and possibly increase local unit revenue as well as restrict the spending of any increased local unit revenue. Depending on whether the changes in property values under the bill would have occurred absent the bill, the bill either will have no effect on State revenue or will delay future increases in State revenue.

As of April 2003, 59 historic district commissions had been established, in communities ranging from Detroit and Farmington Hills to Hart and Boyne City. It is unknown how many of the municipalities creating these historic districts will establish an authority under the bill, or how many authorities will be established within each district. Similarly, it is unknown what properties will be included within a district and what the change in property values subject to capture will be. It is also unknown if allowing the creation of historical neighborhood tax increment finance authorities will increase the number of historical district commissions.

The bill allows the taxes resulting from any increase in property tax values to be captured to pay for any authorized expenditures, including payments on bonds issued for an authority. Certain property taxes, such as those levied under the State education tax or to pay for general obligation bonds, will not be subject to capture. Any positive change in property values that would have occurred absent the bill represents a delay in future revenue increase for both the State and local units. To the extent that the bill produces higher property values than what would have otherwise occurred, the bill will increase local unit revenue, particularly in the future. In the near-term, any increased property tax revenue will be restricted to an authority.

Fiscal Analyst: David Zin

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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.