Legislative Analysis

Mitchell Bean, Director
Phone: (517) 373-8080
http://www.house.mi.gov/hfa

TIFA REIMBURSEMENTS FOR RECENTLY ADDED EXEMPTIONS

House Bill 5539
Sponsor: Rep. Steve Bieda

House Bill 5540
Sponsor: Rep. Lorence Wenke

House Bill 5541
Sponsor: Rep. Robert Dean

House Bill 5542
Sponsor: Rep. Robert Jones

Committee: Tax Policy

Complete to 12-10-07

A SUMMARY OF HOUSE BILLS 5539-5342 AS INTRODUCED 12-6-07

Each of the bills would amend a separate act that allows the capture of tax revenues through the creation of a tax increment finance authority. Generally, the bills would require the Legislature to appropriate and distribute funds to various TIFAs to make up for tax increment revenues from school taxes lost due to certain specified personal property tax exemptions recently added to the Revised School Code, the State Education Tax Act, and the General Property Tax Act. These recent amendments were related to the enactment of the new Michigan Business Tax, which goes into effect January 1, 2008.

[When local units of government create tax increment financing authorities, or TIFAs, they typically establish a special district and then capture future increases in taxes within that district for the authority to use to finance public infrastructure improvement projects within the district; this can include the issuance of bonds to finance projects. There are several statutes that allow for the creation of TIFAs.]

The bill also provides a claims process under which TIFAs could seek reimbursement from the Department of Treasury, and a formula for determining the amount to be appropriated and distributed by the state for that purpose.

The state reimbursement would be for revenue used by an authority to repay an advance made before July 12, 2007, or to pay an obligation issued or incurred before July 12, 2007. The term "advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. The term "obligation' refers to a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law.

The bills would provide reimbursement for revenue lost under:

- Section 1211 (4) of the Revised School Code, which was added by Public Act 37 of 2007 and, after December 31, 2007, exempts industrial personal property from the 18 school operating mills and exempts commercial personal property from 12 of the 18 school operating mills.

- Section 3 of the State Education Tax Act, which was added by Public Act 38 of 2007 and after December 31, 2007, exempts industrial personal property from the SET.

- Section 14 (4) of the Plant Rehabilitation and Industrial Development Act, which was added by Public Act 39 of 2007 and, after December 31, 2007, exempts industrial personal property subject to the Industrial Facilities Tax from that portion of the IFT attributable to the 18 school operating mills and the State Education Tax.

- Section 9k of the General Property Tax Act, which was added by Public Act 40 of 2007 and adds references to the exemptions provided by Public Acts 37 and 38 (and described earlier).

House Bill 5539 would amend the Brownfield Redevelopment Finance Act (MCL 125.2665a). House Bill 5540 would amend the Local Development Financing Act (MCL 125.2161b). House Bill 5541 would amend the Tax Increment Finance Authority Act (MCL 125.1812b). House Bill 5542 would amend the Downtown Development Authority Act (MCL 125.1663c).

Claims process. The bill sets out a process for local units of government to follow in claiming reimbursement from the state. An authority would have to file a claim with the Department of Treasury not less than 30 days before the first day of a fiscal year. The claim would have to include: (1) the property tax millage rate expected to be levied by local school districts within the authority for that fiscal year; (2) the tax increment revenues estimated to be received for that fiscal year based on actual property tax levies of local taxing jurisdictions; (3) the revenues the authority would have received without the property tax exemptions; (4) a list and documentation of the relevant obligations and advances and of the payments due on those in the fiscal year; (5) the amount of money other than tax increment revenues anticipated to be received that are pledged and to be used for the payment of obligations and advances; (6) distributions received for a fiscal year under the appropriate TIFA act in excess or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that year; (7) a list and documentation of other protected obligations and the payments due on each of those obligations in the fiscal year and the total amount of payments due on those obligations.

For the current fiscal year (beginning after September 30, 2007 and before October 1, 2008), an authority could make a claim with all required information at any time after March 15, 2008.

Reimbursement. After review and verification of the submitted claims, the amount appropriated would be distributed as two equal payments on March 1 and September 1 after receipt of a claim. An authority would have to allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality. The bill provides a formula for determining the amount to be appropriated and distributed; essentially the formula makes up for overall lost revenues to the authority. If the amounts required exceeded the amount appropriated, the amounts distributed would have to be first paid to authorities for the amount that funds needed for payments due on advances and obligations exceeded the sum of the amount estimated to be received based on actual property tax levies and the amount pledged to the advances and obligations from other sources.

Calculations of distributions and claims reports would be made on the basis of each development area of an authority.

Not later than July 1 of each year, an authority would have to certify to the local tax collecting treasurer the amount of distribution required by the formula in the bill, calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district taxes or attributable to revenues from the State Education Tax.

The State Tax Commission could provide that the reimbursement calculations and the calculation of allowable capture of school taxes be made for each calendar year's tax increment revenues using a 12-month debt payment period used by an authority and approved by the STC.

No State Liability for Obligations. The bill specifies that the obligations for which distributions would be made would not be a debt or liability of the state; would not create or constitute an indebtedness, liability, or obligation of the state; and would not constitute a pledge of the faith and credit of the state.

FISCAL IMPACT:

The bills would have no revenue impact, but they would increase State expenses to the extent that the State had to hold local development authorities harmless.

Legislative Analyst: Chris Couch
Fiscal Analyst: Jim Stansell