



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 619 through 624 (as enacted)
Sponsor: Senator Jack Brandenburg (S.B. 619 & 620)
Senator Peter MacGregor (S.B. 621)
Senator Dave Robertson (S.B. 622)
Senator Rick Jones (S.B. 623 & 624)

Senate Committee: Finance
House Committee: Tax Policy

Date Completed: 4-11-17

PUBLIC ACTS 505-510 of 2016

RATIONALE

On average, libraries supposedly receive about 77% of their funding through special millage rates approved by the local community. It was reported, however, that tax increment revenue authorities had been depleting library resources through the capture of tax increment revenue. Under a number of statutes, various types of authorities may capture tax revenue attributable to increases in property value within an area or district ("tax increment revenue"), and use that money for specific purposes. Many statutes that permit tax capture authorities have provisions allowing the governing body of a tax jurisdiction levying ad valorem property taxes that would otherwise be subject to capture, to opt-out of new tax captures under certain circumstances. Libraries, therefore, are generally able to opt-out of new tax capture plans created by authorities. However, libraries still were subject to captures under statutes that did not have opt-out provisions. In addition, it was reported that libraries sometimes had trouble opting-out of captures altogether, even if the law regulating the tax capture allowed the libraries to do so.

To address these issues, it was suggested that libraries be excluded from tax captures, including those under statutes that did not have provisions allowing libraries to opt-out, and be allowed to opt-in to tax captures if their boards or commissions consider it appropriate.

CONTENT

The bills amended various statutes to do the following:

- **Exclude from "tax increment revenues" ad valorem property taxes and specific local taxes attributable to those property taxes levied for a separate millage for public library purposes approved by the electors after December 31, 2016, except as provided below.**
- **Specify that a millage that was levied by a library board or commission for public library purposes before January 1, 2017, is exempt from the capture of tax increment revenue if obligations of the authority capturing the revenue are paid, unless the library board or commission allows the capture.**
- **Allow a library board or commission to exempt all or a portion of its taxes from capture, if it levied millage for public library purposes before January 1, 2017, and an authority modifies its tax increment finance plan.**
- **Specify that a library board or commission may allow all or a portion of its taxes to be captured, with respect to a millage for public library purposes approved by the voters after December 31, 2016.**
- **Require any action of a library board or commission to have the concurrence of the chief executive officer of the city that created the library, if the library was created**

under the Act that authorizes cities, incorporated villages, and townships to establish and maintain free public libraries, or the Act that requires the Detroit Board of Education to establish and maintain a district library.

- Include in two of the laws exclusions from tax increment revenue that the other statutes already provided for.**

Senate Bill 619 amended the Tax Increment Finance Authority Act. Senate Bill 620 amended the downtown development authority Act. Senate Bill 621 amended the Corridor Improvement Authority Act. Senate Bill 622 amended the Water Resource Improvement Tax Increment Finance Authority Act. Senate Bill 623 amended the Local Development Financing Act. Senate Bill 624 amended the Historical Neighborhood Tax Increment Finance Authority Act.

Each of those Acts provides for the creation of an authority that may capture tax revenue.

Under the bills, if a library board or commission levies a separate millage for public library purposes that was levied before January 1, 2017, and all obligations of the authority are paid, then the levy is exempt from capture under the respective Act, unless the library board or commission allows all or a portion of its taxes levied to be included as tax increment revenue and subject to capture under the terms of a written agreement between the library board or commission and the authority. The written agreement must be filed with the clerk of the municipality.

If a library board or commission levies a separate millage for public library purposes that was levied before January 1, 2017, and the authority alters or amends the boundaries of the authority district or extended the duration of the existing finance plan, then the library board or commission may, within 60 days after a public hearing is held, exempt all or a portion of its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality that created the authority.

For ad valorem property taxes or specific local taxes attributable to those ad valorem property taxes levied for a separate millage for public library purposes approved by the electors after December 31, 2016, a library board or commission may allow all or a portion of its taxes levied to be included as tax increment revenue and subject to capture under the terms of a written agreement between the library board or commission and the authority. The written agreement must be filed with the clerk of the municipality.

If a library was created under Section 1 or 10a of Public Act 164 of 1877, or established under Local Act 233 of 1869, then any action of the library board or commission under the bills' provisions requires the concurrence of the chief executive officer of the city that created the library to be effective. (Section 1 of Public Act 164 of 1877 allows a city council to establish and maintain a public library and includes provisions regarding a millage levy to fund the library. Section 10a allows voters to petition a city for a tax to establish a public library and includes provisions regarding the establishment of the library if the levy is approved by the electors. Local Act 233 of 1869 provides for the Detroit Board of Education and requires it to establish and maintain a district library, among other things.)

Senate Bill 620 also requires any action taken by the board or commission of a library that was created under Section 1 or 10a of Public Act 164 of 1877, or Local Act 233 of 1869, under the downtown development authority Act to have the concurrence of the State Treasurer if the action involves any bond issued by the State or a State agency.

In addition, most of the Acts that the bills amended specify that tax increment revenue does not include ad valorem property taxes levied under either the Zoological Authorities Act or the Art Institute Authorities Act, or specific local taxes attributable to those ad valorem property taxes. Senate Bills 622 and 624 include those provisions in the Water Resource Improvement Tax Increment Finance Authority Act and the Historical Neighborhood Tax Increment Finance Authority Act, respectively.

Each bill took effect on January 1, 2017.

MCL 125.1801 & 125.1803 (S.B. 619)
125.1651 & 125.1653 (S.B. 620)
125.2873 & 125.2888 (S.B. 621)
125.1773 & 125.1785 (S.B. 622)
125.2152 & 125.2154 (S.B. 623)
125.2843 & 125.2857 (S.B. 624)

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

Libraries give individuals access to many different resources, such as books, magazines, and the internet; help people apply for jobs or file their taxes online if they do not have the ability to do so themselves; and contribute to educating the local community, especially young children. A Library of Michigan 2014-2015 statistical survey reported that 57,755 children's programs (serving 1,549,603 individuals under the age of 14) and 125,092 total programs (serving 3,163,731 individuals) were conducted during the year, as reported by 385 Michigan libraries. The same survey reported that 49,911,802 individuals visited a Michigan library for any purpose during the 2014-2015 time frame.

A library is able to provide these unique services to local communities because of the special millage rates approved by the local community. The bills help to ensure that adequate funds for these important services continue, and provide transparency for the voters who decide to provide tax dollars to a library.

According to Committee testimony, 116 tax captures take over \$3.0 million each year from 49 Michigan libraries. While 49 libraries represent approximately 13% of the libraries operating in Michigan, the \$3.0 million taken reportedly is more than the entire electronic resource budget for all Michigan libraries. Sometimes, a substantial percentage of funds can be redirected from a single library to a different project. For example, it was reported that a tax increment financing authority (TIFA) in Litchfield captured 47% of the library's operating budget.

Taxpayer money was not being used for the purposes determined by the voters when they approved a millage for a library. Money that otherwise would have gone to the library was being diverted to TIFAs that would use the money for different projects. While TIFA projects are generally beneficial to the entire community, taxpayer money was being used in a way that was not agreed upon by the taxpayers or fully disclosed to them. The bills, therefore, make it clear that revenue captured for libraries is exclusive to libraries, providing both appropriate funding and transparency.

Response: Library authorities should know that TIFAs will take from library resources. This deficit should be accounted for whenever a millage is created or adjusted to support a library. Furthermore, this situation, though complex, can be described to taxpayers so there is transparency and they have a better understanding of where money is going and why.

Opposing Argument

The problems pertaining to tax captures should not be resolved in this manner. The bills approach TIFA conflicts one section at a time as legislation did previously by providing exemptions for specific institutions. The library issue created an opportunity to discuss TIFAs broadly. While the bills attempt to provide the necessary transparency for taxpayers regarding libraries and allow library authorities to decide how taxpayer dollars are spent, it would be more beneficial to discuss overarching changes to address TIFA-related problems.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bills will not change total local revenue; however, in some cases, the bills will redistribute local property tax revenue from authorities that use tax increment financing to public libraries that levy a separate millage for public library purposes. In general, public libraries that levy a separate millage approved by voters will have the opportunity for increased revenue, and a tax increment finance authority, downtown development authority, corridor improvement authority, water resource improvement TIFA, local development finance authority, or historical neighborhood TIFA will receive less revenue under the bills. The amount of revenue shifted from an authority to a public library will depend on when a separate library millage is or was approved by the voters, decisions of public library boards and commissions with regard to allowing tax capture under some circumstances, local millage rates, and local property values. For downtown development authority millage, library opt-out of tax capture will require approval of the State Treasurer in cases where there is an outstanding bond that was issued by the State or a State agency.

Senate Bills 622 and 624 also exclude millage levied under the Zoological Authorities Act and the Art Institution Authorities Act from capture under the Water Resources Improvement Tax Increment Authority Act and the Historical Neighborhood Tax Increment Finance Authority Act. This change previously was made for the other types of authorities using tax increment financing.

Fiscal Analyst: Elizabeth Pratt

SAS\A1516\s619ea

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.