



**House
Legislative
Analysis
Section**

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TAX INCREMENT FINANCING: DDA UNIFORMITY

House Bill 5609 with committee amendments
First Analysis (9-27-88)

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Sponsor: Rep. Pat Gagliardi
Committee: Urban Affairs

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THE APPARENT PROBLEM:

Michigan communities may implement tax increment financing plans under three different public acts: Public Act 197 of 1975, the downtown development authority act; Public Act 450 of 1980, the Tax Increment Finance Authority Act; and Public Act 281 of 1986, the Local Development Financing Act. While Public Act 281 of 1986 provides uniform procedures for calculating tax increment financing, local governments still vary in their calculation practices, depending on which act their plan falls under. Under the downtown development authority act and the Tax Increment Finance Authority Act, for example, most tax increment finance plans calculate tax increments on abated property using the full state equalized value (SEV) of new facilities that have tax abatements. Because abatements reduce the tax base, the captured value in tax increment finance plans should reflect this lower base. The Local Development Financing Act solves this problem by defining the assessed value of property subject to a specific local tax as equal to the specific local tax paid, divided by the ad valorem millage rate. This defines the base for new abated facilities as half the SEV. For consistency, the two earlier tax increment finance acts — the downtown development authority act and the Tax Increment Finance Authority Act — need to be amended to include the provisions of the new act.

In addition, the downtown development authority act needs to be amended to remove other provisions that are inconsistent with the two other acts, (e.g., the definition of "initial assessed value"), and language is needed to stop reported abuses by some local governments. Some tax increment finance plans, for example, exclude all millage except in-formula school district millage. Since the cost of capturing taxes of an in-formula district is borne by the state, while the capture of other taxes is borne by the affected local governmental unit, the entire plan is then subsidized by the state. Tax increment finance plans should require that the proportion of school taxes captured not be greater than the proportion of other local taxes levied for operating purposes.

THE CONTENT OF THE BILL:

The bill would amend the downtown development authority act to add language from the Local Development Financing Act that expresses the legislative intent on tax increment financing; to replace definitions currently in the act for certain terms with definitions used in the Local Development Financing Act; and to grant the State Tax Commission the authority to compel enforcement of the act and to promulgate rules. The bill would amend the act to add language from the Tax Increment Finance Authority Act that excludes from captured assessed value growth in property value resulting from inflation, and would also require that the proportion of school operating taxes captured could not be greater than the proportion of capture of other municipal taxes.

Specific Local Tax. The bill would amend the act to define "specific local tax" as a tax levied under the plant rehabilitation and industrial development act, the Commercial Redevelopment Act, the Enterprise Zone Act, and Public Act 189, which provides for taxation on users of tax exempt property. Under this definition, the initial assessed value or current assessed value of property subject to a specific local tax would be equal to the specific local tax paid divided by the ad valorem millage rate.

Captured Assessed Value. Currently, the act defines "captured assessed value" to mean the amount in any one year by which the current assessed value of a project area exceeds the initial assessed value. Under the bill, "captured assessed value" would be defined as the amount in any one year by which the current assessed value of a project area, including the assessed value of property for which specific local taxes, as defined above, are paid in lieu of property taxes.

Initial Assessed Value. As defined in the bill, "initial assessed value" would mean the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the resolution establishing the tax increment financing plan was approved, as shown by the most recent assessment roll of the municipality for which equalization had been completed at the time the resolution was adopted. Property exempt from taxation at the time of the determination of the initial assessed value would be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax, as defined above, had been paid in lieu of a property tax would not be considered tax exempt property. The initial assessed value of property for which a specific tax was paid in lieu of a property tax would be determined as provided under the definition of "specific local tax."

Inflationary Growth. As in the Tax Increment Finance Authority Act, an authority or municipality could exclude from captured assessed value growth in property value resulting solely from inflation. Under the bill, the plan would have to set forth the method for excluding growth in property value resulting solely from inflation.

School Operating Taxes. The bill would require that the percentage of taxes levied for school operating purposes that was captured and used by the plan could not be greater than the plan's percentage capture and use of taxes levied by a city, county, township, or village for operating purposes, other than millage approved for a county in excess of the 15- and 18-mill limitation provided for in Section 6 of Article IX of the State Constitution of 1963.

State Tax Commission. Currently, tax increment authorities are required to submit to the governing body of the municipality an annual report on the status of the tax increment financing account. The bill would amend the act

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to require that the annual reports also be submitted to the State Tax Commission, and to give the tax commission the authority to prescribe necessary information for the report, and to prescribe the method for calculating capturing assessed value. Under the bill, the tax commission could also institute proceedings to compel enforcement of the act, and could promulgate rules pursuant to the Administrative Procedures Act of 1969.

MCL 125.1664 et al.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal implications for the state. (9-22-88)

According to the Department of Treasury, the bill would result in slight savings to the school aid fund. (9-26-88)

ARGUMENTS:

For:

Legislation is needed to eliminate an inconsistency among Michigan's three tax increment finance laws in the definition of "initial assessed value." While the initial assessed value in the Tax Increment Finance Authority Act and the Local Development Financing Act is the most recent assessed value for which equalization has been completed, the initial value for the downtown development authority act is the assessment for the year in which the plan is approved. Since equalization is completed on the fourth Monday in May, the base date under the former acts may be 17 months prior to the establishment of the authority. It is reported that several tax increment financing plans under the latter act, on the other hand, may be using an incorrect year. The attorney general has issued an opinion requiring the base year to be the year the plan is adopted, so it makes sense to clarify the language used in the downtown development authority act to comply with this opinion.

For:

Legislation is needed to eliminate an inconsistency among Michigan's three tax increment finance laws in the definitions of "assessed value." Plans developed under the downtown development authority act and the Tax Increment Finance Authority Act calculate tax increments on abated property using the full state equalized value (SEV) of new facilities that have tax abatements. The result is a tax increment that does not correspond to changes in tax collections, since abatements actually reduce the tax base. By amending the act to comply with the Local Development Financing Act, which defines the assessed value of property subject to a specific local tax as equal to the specific local tax paid, divided by the ad valorem millage rate (which defines the base for new abated facilities as half the SEV), the bill would result in the property tax base that actually generates revenue to be used in calculating captured assessed value.

For:

By amending the act to provide that the proportion of school taxes captured not be greater than the proportion of capture of other municipal operating tax, the bill would prevent tax increment finance plans from excluding all millage but the in-formula school district millage. It is reported that in at least one city, the only taxes captured are the operating taxes of an in-formula school district, which transforms the plan into a program entirely subsidized by the state through the school aid formula. While the state should share in the costs, local governments should also share the burden.

Against:

As worded, the act is too vague in granting the State Tax Commission the authority "to promulgate rules necessary for the administration of this act." By giving it this authority, the bill would allow the commission to step outside its assigned tax assessment role.

Response:

The bill is merely amending the act to provide consistency with the other tax increment financing acts. The Local Development Financing Act of 1986 gave the tax commission the same supervisory role.

Against:

The bill does not address several other inconsistencies among the three acts that allow tax increment financing, including the treatment of debt millage, a limitation on tax increment financing if the effect would be to transfer jobs from one community to another, representation on tax increment financing boards for school districts, counties, and other affected taxing units, and municipal involvement in issuing bonds. Further, several policy issues regarding the use of tax increment financing have been raised, but are not addressed by this bill. The legislature should treat these issues in a comprehensive manner.

POSITIONS:

The Department of Treasury supports the bill. (9-22-88)

The Michigan Municipal League has no position on the bill, not having had an opportunity to formally review the amendments. (9-26-88)

Michigan State Chamber of Commerce has no position on the bill. (9-26-88)