



Telephone: (517) 373-5383 Fax: (517) 373-1986 TDD: (517) 373-0543

House Bill 5461 (Substitute H-4 as discharged) Sponsor: Representative Tonya Schuitmaker

House Committee: Transportation Senate Committee: Transportation

## **CONTENT**

The bill would create the "Private Investment Infrastructure Funding Act" to allow municipalities (cities, villages, and townships) to enter into "negotiating partnerships", which be collaborative efforts between public entities governing the development and financing of public facilities; and allow public entities to solicit or negotiate with private sector investors for funding, and repay the investors with tax increment revenue.

A negotiating partnership would have to execute a written agreement that identified the lead fiduciary agency and the administering agency. (The lead fiduciary agency would be the county or counties in which the public facility was located or other tax collecting unit whose taxes were subject to capture. The administering agency would be the Department of Transportation, the county road commission, the county drain commissioner, or the municipality with jurisdiction over the public facility, and would administer the development of the public facility.)

The development of a public facility could be financed by one or more of the following:

- -- Funds from parties to the agreement with the negotiating partnership.
- -- Funds of the members of the negotiating partnership, as permitted by law.
- -- Fees charged to users of the infrastructure project.
- -- Proceeds from the capture of taxes in a "negotiated benefit area" under the proposed Act or other statutes.
- -- Proceeds from a special assessment district.
- -- Federal loans, grants, aid, or appropriations, as permitted by Federal law.
- -- Donations, contributions, and gifts.
- -- Any other source as accepted by the negotiating partnership.

On behalf of the negotiating partnership, the administering agency could negotiate with private sector investors or solicit private sector investors through a bid process to secure funding for a public facility. The administering agency and private sector investors could include specified costs in financing the development of the public facility; these costs would include the cost of acquiring, constructing, or improving property in connection with the development of a public facility in the negotiated benefit area, and the rate of interest and return of principal for the private sector investors.

On behalf of the negotiating partnership, the administering agency could pledge all or part of the tax increment revenue to pay for the public facility. If the revenue generated by the tax increment turned out to be insufficient to provide the rate of return expected by an investor, the municipality, the administering agency, and the negotiating partnership would not be obligated to make up the difference.

Page 1 of 2 hb5461/0910

The administering agency and the private sector investors would have to enter into a written agreement containing specified provisions, including the amount of tax increment revenue to be captured for the public facility, the rate of interest and return of principal for the investors, the payment schedule, and a statement from the investors acknowledging that they would be repaid only from the tax increment revenue.

A tax increment financing plan would have to be prepared by an administering agency and approved by the governing body of the municipality. Approval of the plan would have to comply with the notice and disclosure provisions of the proposed Act.

The municipal and county treasurers would have to transmit tax increment revenue to the lead fiduciary agency, which could spend the revenue only under the terms of the tax increment financing plan and the negotiating partnership. Annually, the lead fiduciary agency would have to report on the status of the tax increment financing account to the governing body of each municipality that was part of the negotiating partnership, the governing body of each taxing jurisdiction in which taxes were captured, and the State Tax Commission.

The State Tax Commission could institute proceedings to compel enforcement of the proposed Act, and could promulgate rules necessary for its administration.

Tax increment revenue could include a portion of the taxes levied under the State Education Tax Act and taxes levied by local or intermediate school districts if the State Treasurer determined that the capture was necessary to reduce unemployment, promote economic growth, and increase capital investment in the municipality. The portion captured could not exceed 50% and those taxes could not be captured for more than 15 years.

Public facilities would include such as streets, parks, parking facilities, buildings, recreational facilities, waterways, and water or wastewater facilities, as well as public transportation-related infrastructure and light and commuter rail line projects.

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

The fiscal impact on State and local government is indeterminate. It would depend on the number of new tax increment authorities created and the amount of tax capture that occurred.

Date Completed: 12-2-10 Fiscal Analyst: Eric Scorsone

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.