

Legislative Analysis



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TIFA NOTICES: USE CERTIFIED MAIL

House Bills 4012-4013 and 4318 as enrolled
Public Acts 13-15 of 2005

Sponsor: Rep. Tom Meyer

House Committee: Commerce

Senate Committee: Economic Development, Small Business and Regulatory Reform

Second Analysis (12-22-06)

BRIEF SUMMARY: Each of the bills would amend a different act allowing for the creation of tax increment financing authorities to require that notices of hearings be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to the capture of taxes under a proposed tax increment finance authority and financing plan (or an amendment to the plan).

FISCAL IMPACT: The notification provisions in the bills would have no state or local revenue impact. They could increase administrative costs at the local level by a small indeterminate amount.

THE APPARENT PROBLEM:

When local units of government create tax increment financing authorities, or TIFAs, they typically establish a special district, such as a downtown development district, and then capture future increases in taxes within that district for an authority to use within the district. The several acts that create TIFAs require that the governing body proposing the creation of an authority mail a notice of a hearing, at least 20 days prior to a hearing, to taxpayers of record in the proposed district and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture.

In a recent case, the county government in Tuscola County claimed not to have received notification from a local unit of the unit's plan to create a TIFA district and capture some revenue that would otherwise go to the county. The local unit claimed it had sent the proper notification. Reportedly, this conflict led to a drawn-out process resulting in strained relations and extra legal fees. Some people believe similar situations could be avoided in the future if notice was required by certified mail and if multiple county officials were notified (since officials in a county do not always share an address).

THE CONTENT OF THE BILLS:

Each of the bills would amend a different act allowing for the creation of tax increment financing authorities to require that notices of hearings be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to the capture of taxes under a proposed tax increment finance authority and financing plan (or an amendment to the plan).

Currently, the acts require that the governing body proposing the creation of an authority mail a notice of a hearing, at least 20 days prior to a hearing, to taxpayers of record in the proposed district and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture. This requirement, under the bills, would also apply to a proposed amendment to an existing development plan.

House Bill 4012 would amend the Local Development Financing Act (MCL 125.2154 and 2166). House Bill 4013 would amend the Tax Increment Finance Authority Act (MCL 125.1803 and 1817). House Bill 4318 would amend the Downtown Development Authority Act (MCL 125.1651, 1653 and 1668). The bills apply to notices sent after June 1, 2005.

[House Bill 4318 was amended in the Senate to add a new provision to the DDA Act modifying the definition of "tax increment revenues." It specifies that such revenues include ad valorem taxes and specific local taxes, as approved by the state treasurer, attributable to the levy of the state education tax and local school taxes in the development area of an authority established in a city with a population of 750,000 or more (Detroit). This provision applies only to revenue used (1) to pay for, or reimburse an advance for, up to \$8 million for the demolition of buildings or structures on publicly or privately owned property in a development area, where the demolition begins in 2005; or (2) to pay the annual principal of or interest on an obligation approved by the state treasurer and issued by a DDA, or by a city on behalf of the DDA, to cover those demolition costs.]

ARGUMENTS:

For:

Using certified mail to notify affected local officials about the proposed creation of a tax increment finance district will avoid repetition of a problem that recently occurred in Tuscola County, where county officials and officials of a village disagreed over whether there had been proper notification of the establishment of a tax increment financing authority.

Against:

The use of TIFAs to promote economic development has already been hampered with the post-Proposal A restrictions on the capturing of school revenues. The notification requirements also make it more difficult to use this valuable economic development tool.

Response:

The TIFA process should be an open one. Counties and other units that stand to lose revenue ought to be involved. Local units that want to capture revenue ought to be made to make the case for that capture. These bills simply beef up existing notification requirements.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.