

Fiscal Estimate Narratives

DOR 9/10/2003

LRB Number 03-2574/2	Introduction Number AB-478	Estimate Type Original
Subject Changes to tax incremental financing statutes		

Assumptions Used in Arriving at Fiscal Estimate

The bill makes changes to tax incremental finance (TIF) law that changes restrictions to tax incremental districts (TIDs), procedures and reporting requirements, and Department of Revenue (DOR) responsibilities. The bill also makes several changes to environmental tax incremental finance (ER TIF) law.

Restrictions to TIDs

1. Allows 10 years for TID expenditures for TIDs created after October 1, 2004. Under current law, the expenditure period is 7 years for TIDs created after October 1, 1995 and 10 years for TIDs created before October 1, 1995.
2. Prohibits land annexed by the municipality after January 1, 2004 to be included in a TID unless 1) three years have elapsed since annexation, or 2) the municipality enters into a cooperative plan boundary agreement or another kind of agreement with the town relating to annexation, or 3) the municipality compensates the town for tax revenues lost by the town as a result of the annexation. Under the third option, the municipality must pay the amount of property taxes levied by the town at the time of the annexation for 5 years.
3. Requires a municipality, when creating a TID, to declare whether the TID will be a blighted area district, a rehabilitation or conservation district, an industrial district or a mixed-use district. The declaration for mixed-use TIDs will be based on predominant classification of the area in the TID. Mixed-use development may not have more than 35% of the area in residential use. Current law requires no specific classification of TIDs.
4. Establishes that industrial TIDs created after October 1, 2004 have a maximum 20-year life. Current law provides for a 23-year life for all TIDs created after October 1, 1995.
5. Prohibits cash grants made by the municipality to owners or developers of land located in a TID to be an eligible TID project cost unless the grant recipient has signed a development agreement with the municipality. The bill also requires a public hearing to be held regarding cash grants or development agreements that are part of the project plan; the hearing may be in conjunction with other required public hearings.
6. Allows a TID project plan to be amended to remove territory from the TID at any time of the TID life. Current law allows amendments to project plans that add territory to a TID within the first seven years after creation.
7. Imposes the same limitations and restrictions for amended TIDs as for newly-created TIDs. In particular, the law clarifies that 1) amended TIDs are subject to the 5%/7% value limitation; 2) expenditures for newly platted residential development are not eligible costs; and 3) the value of municipally-owned property is included the redetermination of the TID base value.
8. Allows tax increment allocations between eligible TIDs only if the donor TID has sufficient revenue to pay for all incurred and expected project costs. Under current law, TIDs created before October 1, 1995 may allocate tax increments to other TIDs also created before October 1, 1995 if the donor TID has sufficient revenue to pay for that year's project costs. The bill retains the provision that tax increment allocation may occur only between TIDs created before October 1, 1995.
9. Prohibits a joint review board from approving a proposed TID unless the board makes a positive assertion that the development described in the proposed TID would not occur without the creation of the TID. Under current law, the joint review board is to base its decision to approve or deny the creation of a proposed TID on whether 1) the development expected in the TID would occur without the use of tax incremental financing; 2) the economic benefits of the TID, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the costs of improvements; and 3) the benefits of the proposal

outweigh the anticipated tax increments to be paid by the property owners in the overlying taxing districts. However, the joint review board is required to issue a written explanation only when it denies the creation of a TID; this provision requires the board to issue a statement when approving a TID.

Procedures and Reporting Requirements

1. Allows representatives from a union high school district and from an elementary school district to each have one-half vote on a joint review board and requires municipalities to inform special-purpose districts of meetings and actions by the joint review board. Current law does not specify which district is to be represented on the joint review board.
2. Requires municipalities to provide DOR with a final accounting of TID project expenditures, costs and positive tax increment upon termination of a TID. DOR may not certify the base value of future TIDs until it receives this report. Current law requires three audits to be conducted to determine if all financial transactions are made in a legal manner and to determine if the TID is complying with its project plan; however, these audits are not submitted to DOR and do not provide uniform detail on actual expenditures and uses over the life of the TID.
3. Changes the timeline for TIF activities, including the time between the public hearing on a proposed TID and the adoption by the municipal planning commission and the time between the municipal resolution creating the TID and the approval by the joint review board. These changes will allow for a more expedited approval process.
4. Allows a municipality to create a standing joint review board that may remain in existence for the entire time that any TID exists in the municipality. Currently a joint review board may vote to disband following the approval or rejection of a TID proposal.
5. Requires the application for creating a TID district to include an estimate of the percentage of territory in the TID that will be devoted to retail business at the end of the maximum expenditure period. This requirement only applies if the estimate is at least 35%.
6. Requires the joint review board to notify affected local governmental units that are not represented on the board of prospective board meetings.

DOR Role and Responsibilities

1. Authorizes DOR to impose a \$1,000 filing fee (program revenue) for the determination or redetermination of the base value of TIDs. DOR certifies the base value for all created; it also redetermines the base value when a TID is amended in a way that affects the boundaries of the TID.
2. Requires DOR to prepare and update a manual on the TIF program.
3. Allows a majority of joint review board members to request in writing a DOR review of the objective facts contained in the documents submitted to the board by the municipality. This request must occur not later than five days after the board submits its decisions on the TIF proposal. Within 10 working days of receiving such a request, DOR must investigate the specific fact or item that the members believe is incomplete or inaccurate and send its written response to the board. Upon resolving the problem identified by DOR, the municipality is to resubmit the proposal to the board.
4. Allows DOR to determine if a municipality has substantially complied with specified TIF procedures. If DOR determines that the municipality was in substantial compliance with these procedures, DOR is to certify the TID base value. Under current law, DOR may not certify the TID base value if specific procedures are not followed.
5. Prohibits DOR from certifying a TIF district (TID) that is in excess of its value limit. Current law requires that the municipal resolution creating a TID district contain the finding that either the equalized value of the taxable property in the TID plus all existing TIDs in the municipality not exceed 7% of the total equalized value of taxable property within the municipality or the equalized value of the taxable property of the TID plus the value increment of all existing TIDs does not exceed 5% of the total equalized value of taxable property with the municipality. DOR may not certify a TID base until it determines certain procedures and documents have been timely completed and all required notices timely given; however, the facts supporting any submitted documents are not subject to review by DOR. Under the bill, DOR would review and approve this finding before certifying a TID base.

Environmental Remediation (ER) TIF

1. Defines "project expenditures" and "environmental remediation tax increment district" similar to TIF law. The bill clarifies the definitions of "environmental remediation tax increment", "environmental remediation tax incremental base" and "taxable property". The bill clarifies that the base year is based on the date of the resolution creating the ER TID. Current law contains a conflict in the interpretation of when an ER TID is created. One area of the law specifies that the base year of an ER TID is determined after the Department of Natural Resources certifies that the property has been remediated, whereas other areas specify that the ER TID is created before remediation is completed.
2. Allows as eligible ER project costs the cancellation of delinquent taxes if the political subdivision demonstrates that it has not already recovered such costs by other means.
3. Creates procedures for the creation and termination of an ER TID similar to procedures for TIDs.
4. Extends ER TID life from 16 to 23 years. The bill retains the 15-year expenditure period under current law.
5. Requires an audit of the ER TID 12 months after the last expenditure is made. The bill also requires the taxing jurisdiction creating the ER TID to report to DOR the terminated TID's total project costs and positive tax increments.
6. Clarifies that multiple, contiguous parcels may be included in an ER TID. Current law makes reference to only single parcels to be in an ER TID.
7. Requires a municipality that annexes land that is part of a town ER TID to reimburse the town for eligible costs that are attributable to the annexed territory. The bill also requires that the municipality and town negotiate an agreement on the amount that is to be paid. The department shall redetermine the ER TID base value if part of the TID is annexed.

Fiscal Effect

The bill will result in slightly longer lives of TIDs to the extent that TIDs will take longer to recoup the additional costs associated with the reporting requirements and filing fee under the bill. In addition, the bill may result in additional expenditures due to the three additional years allowed for expenditures. On the other hand, the lengthened expenditure period may allow municipalities to delay expenditures until later in the project, thereby reducing financing costs. The change in TID life resulting from these provisions is expected to be minor.

Similarly, the bill increases the cost of administering ER TIDs related to creation procedures, audits and reporting requirements. These costs would slightly lengthen the life of ER TIDs.

Restrictions on the inclusion of annexed property may reduce the number or size of industrial TIDs, since TIDs created on annexed property tend to be ones suitable for industrial development. Failure to reach a cooperative plan boundary agreement, as required by the bill, could result in the municipality either not creating the TID or creating a smaller one that does not contain annexed land. Inclusion of annexed land will likely raise project costs, as municipalities will be required to pay the town for 5 years the amount equal to the tax revenue levied on the annexed territory by the town. These additional costs will result in slightly longer TID life.

The bill reduces industrial TID life to 20 years. On the one hand, the fewer years allowed to recoup project costs could result in reduced TID expenditures; on the other hand, to the extent that the average TID life is 12 years, it is unlikely that the reduced maximum life under the bill would impact the project plans of many industrial TIDs.

The \$1,000 filing fee for the determination or redetermination of TID base values beginning January 1, 2004, assuming 85 TIDs are created or amended annually that require a determination or redetermination of the base value, will result in an increase in program revenue of \$32,500 in FY04 and \$85,000 annually thereafter.

The bill expands the responsibilities of DOR to include the writing and updating a TIF manual, a 10-day DOR review of TIF documents, compiling aggregate data from termination reports, determining substantial compliance with TIF procedures, and redetermining base values of TIDs that have subtracted territory. To address these additional responsibilities, the bill authorizes one new FTE position effective January 1, 2004. The department estimates one time costs of \$8,400 PR in FY04 and ongoing costs associated with the FTE position and printing and mailing costs equal to \$38,100 PR in FY04 and \$76,300 PR in FY05.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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Subject			
Changes to tax incremental financing statutes			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
\$8,400 for computer and office equipment			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
	State Operations - Salaries and Fringes	\$74,800	
	(FTE Position Changes)	(1.0 FTE)	
	State Operations - Other Costs	1,500	
	Local Assistance		
	Aids to Individuals or Organizations		
	TOTAL State Costs by Category	\$76,300	\$
B. State Costs by Source of Funds			
	GPR		
	FED		
	PRO/PRS (20.566(1)(go))	76,300	
	SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
		Increased Rev	Decreased Rev
	GPR Taxes	\$	\$
	GPR Earned		
	FED		
	PRO/PRS (20.566(1)(go))	85,000	
	SEG/SEG-S		
	TOTAL State Revenues	\$85,000	\$
NET ANNUALIZED FISCAL IMPACT			
		State	Local
	NET CHANGE IN COSTS	\$76,300	\$See
	NET CHANGE IN REVENUE	\$85,000	\$
Agency/Prepared By			
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			Date
			9/10/2003