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FISCAL IMPACT STATEMENT

LS 6819 | **NOTE PREPARED:** Feb 22, 2023
BILL NUMBER: HB 1085 | **BILL AMENDED:** Feb 22, 2023

SUBJECT: Tax Incentive Financing.

FIRST AUTHOR: Rep. Cherry | **BILL STATUS:** 2nd Reading - 1st House
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
DEDICATED
FEDERAL

Summary of Legislation: (Amended) *Commission Membership*: This bill makes changes to the membership compositions of redevelopment commissions. It provides that the president and vice president of a redevelopment commission shall not have the same appointing authority.

Spending Plan: The bill requires a commission to provide an annual spending plan listing planned expenditures for the next calendar year. It provides that a commission may accelerate payments toward debt service obligations in order to retire debt service earlier, regardless of whether that use is listed in the annual spending plan. It provides that a commission making accelerated debt payments may retain the assessed value (AV) associated with the original debt service schedule.

Fund Balance Report: The bill requires a commission to provide fund balances to the Department of Local Government Finance (DLGF) at the end of a calendar year.

Expenditure Area: This bill provides that except for property tax proceeds transferred to a school corporation or public school, including a charter school, allocated property tax proceeds may be expended for projects located outside an allocation area only if the commission adopts a declaratory resolution that finds that the expenditures: (1) will directly benefit the allocation area; or (2) will result in the creation or retention of jobs in the private sector.

TIF Allocations: The bill provides that specified amounts collected in a new allocation area must be allocated to certain taxing units that provide police or fire services in the allocation area and specifies the manner in which those allocation calculations must be made.

This bill provides that the amount of AV in excess of the 200% required to make principal and interest payments on bonds may be used for non-debt, onetime purposes within a calendar year before allocating the balance of the excess AV to the respective taxing units.

TIF Extensions: The bill provides that the expiration date of an allocation area may not be extended.

Specified Account: This bill provides that a commission may, pursuant to the approval of the local legislative body, create an account for a specific infrastructure purpose.

Existing TIF Area Bonding: The bill provides that for a bond issuance related exclusively for infrastructure in an allocation area, new bonds may only be issued by an existing commission between July 1, 2023, and January 1, 2025.

Fire Territories: This bill provides that, for 2023, an ordinance or resolution to establish or expand a fire protection territory (FPT) is adopted after the legislative body holds at least three public hearings to receive public comment on the proposed ordinance or resolution in which: (1) at least one public hearing must be held at least 25 days before the legislative body votes on the adoption of the ordinance or resolution; and (2) at least two additional public hearings must be held not later than five days before the legislative body votes on the adoption of the ordinance or resolution.

The bill provides that the excess of the proceeds of the property taxes attributable to an increase in the property tax rate for a participating unit of a FPT that is established after the establishment of a tax increment financing area located outside of Marion County shall be allocated to and distributed in the form of an AV pass back to the participating unit of the FPT and not to the redevelopment district.

Effective Date: January 1, 2023 (Retroactive); Upon Passage; July 1, 2023; January 1, 2024.

Explanation of State Expenditures: *DLGF*: This bill requires the DLGF to compile the fund balance reports from the redevelopment commissions and provide the information to the Interim Study Committee on Fiscal Policy each year, through 2028. The DLGF would annually receive a spending plan from each redevelopment commission. The DLGF currently maintains a TIF information portal on the Gateway website. The DLGF could incur additional programming costs to update the TIF portal to accept the required information and to produce reports.

Auditor of State: The DLGF will also be required to post the fund balance information on the Indiana Transparency website maintained by the Auditor of State (AOS). The AOS may incur additional programming costs to post this information.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) C*ommission Member*ship: Counties and municipalities will have reduced expenses for redevelopment commission meetings since the number of members attending meetings will be reduced by one.

Under current law, municipal redevelopment commissions are comprised of five voting members, three appointed by the executive and two appointed by the legislative body. Under this bill, municipal redevelopment commissions will have four members, with the executive and the legislative body each appointing two members.

County redevelopment commissions are currently comprised of either five or seven voting members. The county commissioners appoint (A) three members of a five member commission or (B) four members of a seven member commission. The county fiscal body appoints the remaining members.

Under this bill, the number of members of the county redevelopment commissions will be reduced by one, resulting in four or six member commissions. The county commissioners and the county fiscal body will have the same number of appointments.

Fund Balance Report: This provision requires redevelopment commissions to provide balances for the allocation fund and any other fund maintained by the commission to the DLGF at the end of a calendar year. Redevelopment commissions must currently complete an annual report and forward the report to the DLGF. Among other items, the report must include previous year fund balances for each TIF district.

Expenditure Area: This provision will increase the workload of redevelopment commissions to adopt declaratory resolutions for the expenditure of redevelopment commission project funds outside the boundaries of the TIF area (other than for educational or training programs or transfers to a school). Approval of such a resolution would have to be voted upon by the applicable legislative body. This provision could also result in the non-approval of some proposed expenditures.

Spending Plan: Each year, redevelopment commissions will be required to submit a spending plan for the upcoming year by December 1. Expenditures will be limited to the purposes provided in the plan. However, a commission may accelerate debt payments even if the accelerated payments are not listed in the plan. If a commission makes accelerated debt payments, the commission may retain the AV increment associated with the original payment schedule.

Existing TIF Area Bonding: Under the bill, existing TIF areas will not be permitted to bond for infrastructure after December 31, 2024. This provision may reduce future expenditures in some existing TIF areas.

Explanation of Local Revenues: (Revised) *TIF Allocations*: This provision will result in higher revenues for county units that provide police or fire services in new county TIF areas. Revenues retained by the redevelopment commissions from new TIF areas will be reduced.

Under current law, each commission must annually determine the amount of allocated tax proceeds that will exceed the amount needed to make debt payments and pay other expenses. If the excess revenue amount exceeds 200% of the amount needed, the commission must submit to the unit's legislative body its determination of the proposed excess AV amount to be passed through to the units. The legislative body may approve or modify the AV pass-through amount.

Under the bill, the commission will instead submit its determination of the amount of excess AV that the commission proposes to use for non-debt, one time purposes in the year, before passing through the remainder of the excess AV. If additional AV is passed through to the taxing units under this provision, tax rates would be reduced, which will result in higher taxing unit revenues due to lower tax cap losses.

The bill also encourages redevelopment commissions to make allocations from existing TIF areas to school corporations. School corporation revenues would be higher if the redevelopment commission elects to make these allocations.

Fire Territories: This provision could result in higher revenues for FPTs established after 2022, and for units

that intersect the FPT, in a case where all or a part of the FPT is located in a TIF allocation area. The TIF area will not receive an allocation of taxes based on the portion of the FPT tax rate that exceeds the former fire protection tax rate of the participating units. Instead, the TIF will pass through the amount of AV that would have generated the excess allocation amount. The FPT will have a higher tax base, and as a result, the FPT tax rate will be reduced, possibly reducing tax cap losses.

However, the if the redevelopment commission determines that it cannot meet debt service obligations without all or a part of the AV pass-through, then the AV pass-through amount may be reduced.

TIF Extensions: The bill prohibits the extension of a TIF area upon expiration. Instead, the bill permits a new TIF area to be established in its place. The base AV of the new area would reflect the AV when the new TIF is created so all of the AV in the former TIF would flow to the taxing units. The higher taxing unit base AV reduces tax rates and increases taxing unit revenue due to reduced tax cap losses.

State Agencies Affected: Department of Local Government Finance; Auditor of State.

Local Agencies Affected: Redevelopment commissions; Local civil taxing units and school corporations; Fire protection territories.

Information Sources:

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