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Senate Bill 846 (as reported without amendment)  
Sponsor: Senator Nancy Cassis  
Committee: Finance

Date Completed: 1-13-04

### **RATIONALE**

Under the downtown development authority Act, a downtown development authority (DDA) may "capture" the growth in tax revenue in a designated development area for improvements to a variety of public facilities, such as streets, parks, parking facilities, and recreational facilities. These improvements are typically financed through bond issues that are paid off out of tax revenue growth. Many DDAs were operational before the passage of Proposal A in 1994, which significantly reduced local school property taxes. Since the passage of Proposal A, DDAs have not been able to capture the growth in school tax revenue, except as prescribed in the Act; that is, a DDA may capture State and local school taxes as necessary to repay eligible advances, eligible obligations, and other protected obligations. Currently, "other protected obligation" includes a loan from a municipality to an authority if the municipality's legislative body approved the loan on April 18, 1994.

The City of Wixom captured approximately \$45,000 in school taxes in 1994, which it used to purchase land for its DDA. The Department of Treasury audited the Wixom DDA and, in 2001, ruled that the use of the captured revenue to purchase land for the DDA did not qualify as a loan from a municipality to an authority, as the definition of "other protected obligation" provides, and thus the Department required reimbursement to the School Aid Fund and the local school district. It has been suggested that the transaction entered into between Wixom and its DDA should be included as a protected obligation under the Act.

### **CONTENT**

The bill would amend the downtown development authority Act to include in the

definition of "other protected obligation" a loan from a municipality to an authority or an obligation or advance issued or incurred by a municipality on behalf of an authority if the loan, obligation, or advance were approved by the municipality's legislative body on or after April 18, 1994, but before July 1, 1994.

Under the bill, the amortization terms of the loan, obligation, or advance would have to be as established by or pursuant to an approving action of the legislative body. If the approving action did not establish the amortization terms, the terms would have to be established by order of the municipality's chief executive officer executed within 60 days of the bill's effective date. If no order were executed within that period, the loan, obligation, or advance would be considered to amortize on a level-payment basis over 10 years at 5% annual interest.

MCL 125.1651

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

After the passage of Proposal A, some communities thought they were in compliance with certain agreements, but later found that they were not. Because the Department of Treasury ruled that Wixom's \$45,000 "loan" does not fall under the definition of "other protected obligation," the captured tax revenue cannot be returned to the City of Wixom. The bill would allow the city to retain the \$45,000, as the city thought it would be able to do legitimately at the time it purchased land for the DDA.

The definition of "other protected obligation" has been revised several times since the enactment of Proposal A in response to similar situations in specific communities. Under Public Acts (PA) 201 and 202 of 1997, PA 499 of 1998, and PA 136 of 2003, the definition was expanded to include specific obligations incurred by DDAs, and similar action would be appropriate in this situation.

### **Opposing Argument**

Under the current law, "protected obligation" includes loans. Under the proposed definition, however, it also would include the more expansive term "obligation", and, although the bill appears to apply only to the City of Wixom, it potentially could apply to other municipalities. Such a broad response to a specific situation would be inappropriate.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The bill would reduce State education tax revenues to the School Aid Fund by an unknown and likely minimal amount, depending upon the repayment costs of the additional items the bill would include as a protected obligation and the number of local units affected by the bill. The bill would minimally increase revenues for local units, as well as alter revenue sources and the expenditures to which they were directed.

This estimate is preliminary and will be revised as new information becomes available.

Fiscal Analyst: David Zin

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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.