

Legislative Analysis



DDA: "OTHER PROTECTED OBLIGATIONS"

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House Bill 5901 as enrolled

Public Act 659 of 2006

Sponsor: Rep. Tom Meyer

House Committee: Commerce

Senate Committee: Commerce and Labor

Complete to 1-16-07

A SUMMARY OF HOUSE BILL 5901 AS ENROLLED

House Bill 5901 would amend the Downtown Development Authority Act to expand the definition of "other protected obligation."

Since the passage of Proposal A to fund public schools in 1994, downtown development authorities have been generally prohibited from capturing taxes that are used to fund school districts, except in cases specified in the law where obligations (e.g., bonding arrangements) had been entered into before or during the implementation of Proposal A. These are known as "eligible obligations" and "other protected obligations." The law sets forth several narrow definitions of "other protected obligation."

House Bill 5901 would include within the definition of "other protected obligation" *an obligation incurred by an authority on October 1, 2001, that was used to finance a streetscape capital project, to the extent [state and local school] taxes were captured in 2002 through 2004, if a plan for the subsequent repayment of those taxes has been approved by the State Tax Commission.* The plan would have to call for repayment of taxes with interest at the rate prescribed in Section 23 (2) of the Revenue Act (the current monthly interest rate of one percentage point above the adjusted prime rate per annum).

MCL 125.1651

BACKGROUND INFORMATION:

According to testimony before the House Committee on Commerce, the downtown development authority in the City of Bad Axe mistakenly collected school taxes totaling nearly \$100,000 over three years (2002-2004) as part of a tax increment financing plan to finance debt obligations to fund a streetscape project in the downtown main street. A Department of Treasury audit discovered the error. (The city has complained that a state audit had not been conducted in five years, leading to the accumulation of a large amount mistakenly collected. Annual reporting to the state had not revealed any problems. The department has pointed out that the prohibition on school taxes has been in place since 1994, the city did not begin collecting until eight years after that date, and local units have received many instructions about this prohibition.) The substitute reported by the House Commerce Committee (reportedly drafted with the assistance of the Department

of Treasury) allows for a repayment plan to be crafted for the school taxes and allows the streetscape loan to continue in place.

FISCAL IMPACT:

There is no fiscal impact due to the provision for a repayment plan.

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