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H.B. 123
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134th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 123's Bill Analysis

Version: In House Ways and Means

Primary Sponsors: Reps. Fraizer and Cross

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill modifies laws governing community reinvestment areas (CRAs) and the terms under which property may be exempted from taxation in these areas. Effects of the changes vary, with many tending to reduce costs for municipalities and counties establishing a CRA and to reduce revenues for school districts and other political subdivisions. The dollar amounts of most of these effects appear indeterminate.
- The bill eliminates a CRA fee that will reduce revenue to a state fund, the Tax Incentives Operating Fund, by approximately $100,000 per year. This fund is used by the Development Services Agency to monitor economic development tax credits and CRA and enterprise zone designations.
- The bill reduces the role of the state in the creation of new CRAs, which may reduce costs to the state.

Detailed Analysis

Overview of community reinvestment areas

A CRA is an economic development tool available to local governments. It is a geographic portion of a municipal corporation's territory or of the unincorporated part of a county, for which the legislative authority of the municipal corporation or county has adopted a resolution describing the boundaries of the area. The resolution must state that housing facilities or structures of historical significance are located in the area and new housing construction and repair of existing facilities or structures are discouraged. Historical or architectural significance, designated by the municipality or county, is based on age, rarity, architectural quality, or previous designation by a historical society, association, or agency.

Within the CRA, new residential, commercial, or industrial structures or the increased value of existing structures after remodeling began may be granted exemption from 100% or a lesser percentage of real property taxation for a specified number of years. For residential property, the exemption percentage and term are specified in the resolution creating the CRA. For commercial and industrial property, the exemption percentage and term are negotiated for each project. An owner of real property in a CRA may apply for tax exemption of the value of a new structure or of the increase in value of an existing structure after the start of remodeling. Commercial or industrial property owners pay a state application fee of $750 to be in a CRA.

Over 1,000 CRA identifying numbers are assigned, based on data posted on the Development Services Agency's website. Whether all remain active is unclear. Use of CRAs is concentrated in the larger urban counties.

Fiscal effects of the bill

School districts

A CRA tax exemption for commercial or industrial property may only be granted under continuing law if approved by the board of education of a school district with territory in the CRA, unless one or the other of two conditions is met. First, the school board may waive this right. Alternatively, approval is not needed if tax revenues for the property made partially tax exempt plus any payments to the school district equal or exceed a specified percentage of the amount that tax revenues would be in the absence of any exemption. In current law the percentage is 50%. The bill would lower this percentage to 25%, i.e., school board approval is not needed if tax revenues plus any payment equal or exceed 25% of the amount of taxes if there were no exemption. This decrease would tend to make approval of tax exemption easier and might tend to increase tax revenue losses to school districts and other political subdivisions.

The bill amends a requirement in current law that municipalities share half of municipal income tax revenue from new employees at a commercial or industrial project in a CRA with the school district that has territory in the CRA, if the additional payroll of new employees is $1 million or more, increasing the threshold to $3 million and indexing the threshold for inflation. Current law's threshold applicable to other, non-CRA exemptions remains unchanged by the bill at $1 million or more in employee payroll. This compensation is only required if the legislative authority establishing the CRA is unable to negotiate a compensation agreement with the school board. This change would tend to benefit municipal corporations and counties at the expense of school districts.

Limited home rule townships

The bill extends the authority to designate CRAs to townships that have adopted limited home rule government. Under current law, only a municipality or a county may designate an area within its jurisdiction as a CRA. In general, a township may become a limited home rule township, which grants it additional powers, if it has a township administrator, a population of at least 2,500 in its unincorporated territory, and a budget of at least $3.5 million. In some instances, voters must also approve its formation.

This change may result in exemption of additional areas from property taxes.

Elimination of CRA fees

The bill eliminates two CRA-related fees from the law. These fees pay for some of the administrative costs to local governments and to the Development Services Agency (DSA) in oversight of CRAs. First, the bill repeals an annual fee payable by the property owner to the local government of 1% of taxes exempted, but no less than $500 or more than $2,500. However, the repealed section allows the legislative authority to reduce or waive the fee. So the repeal may reduce local fee income, though imposition of the fee currently appears to be discretionary for the local government creating the tax exemption.

Second, the bill repeals the authority for DSA to impose a state fee, currently set by rule at $750, on commercial and industrial property owners applying to join a CRA. The fee, under codified law, is determined by DSA based on the Agency's cost of administering the CRA Program, and is deposited in the Tax Incentives Operating Fund (Fund 5JR0). According to DSA, the eliminated CRA fee generated approximately $120,000 in revenue in FY 2020, and nearly $90,000 in each of FY 2018 and FY 2019. Fund 5JR0 is used to administer several tax credit programs, plus CRA and enterprise zone classifications.

Other fiscal effects

The bill reduces from five years to two years the wait required after discontinuation of a CRA commercial or industrial project and eligibility of the project's owner for exemption in another CRA or in an enterprise zone. This change may increase revenue losses from tax exemptions.

The bill eliminates a requirement that proposed CRAs must receive a determination from the Director of Development Services that the territory of the CRA is eligible for tax exemption prior to the legislative authority granting such exemptions. This change may reduce costs to the state.

The bill makes changes to required content and recipients of CRA annual reports. It also repeals a requirement that a municipal corporation or county notify DSA of zoning restrictions, instead providing this notice through the annual report. LBO expects little or no fiscal effect from these changes.

Synopsis of Fiscal Effect Changes

- The substitute bill allows limited home rule townships to create CRAs.
- The substitute bill restores a requirement, repealed by the bill As Introduced, that a municipality unable to negotiate a compensation agreement with the school board share half of municipal income tax revenue from new employees in a CRA with the school district that has territory in the CRA, if the additional payroll of the new employees exceeds a threshold. The substitute bill increases the threshold from $1 million to $3 million and indexes it for inflation.

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