BILL ANALYSIS

S.B. 1264
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Chapter 311, Texas Tax Code authorizes municipalities and counties to create reinvestment zones, also known as tax increment finance zones, or TIFs, to promote development or redevelopment of geographic areas. Once created, TIFs are funded, in part, by the tax increments generated as a result of the project for which the TIF is created. To facilitate the project, the TIF, along with the local governments contributing to the reinvestment fund (the "taxing units"), develop project and financing plans, which specify the amounts of funding that the TIF and the taxing units will contribute to the project.

Typically, the public works projects for which TIFs are created are capital-intensive projects with significant up-front costs (e.g., engineering and property acquisition costs). However, TIF funding for the project is often not available until the project is completed and the property values are sufficiently increased as a result of the project. This creates an imbalance of project funds and project financing.

Currently, the only method under Chapter 311, Texas Tax Code by which TIFs are able to obtain such up-front funding is through the issuance of tax increment bonds or notes. Although tax increment bonds or notes are viable options for some projects, the issuance of such obligations involves a significant expenditure of tax dollars. A more economical option would be to allow taxing units with available funds to loan those funds to the TIF, and subsequently be repaid by the tax increments generated as a result of the project. However, Chapter 311, Texas Tax Code does not currently expressly allow taxing units to loan funds to TIF's.

SB 1264 authorizes taxing units to make loans to a reinvestment zone. The bill additionally authorizes a TIF to use contributed funds to repay any such loans with TIF funds on the terms agreed to by the TIF and the taxing unit. By allowing such loans and repayment, the TIF will be sufficiently funded and able to participate in up-front project costs in accordance with the project plan and financing plan, without the necessity and burden of issuing tax increment bonds or notes.

RULEMAKING AUTHORITY

This bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The Act amends Subsection 311.0123(e)(1), Tax Code, to allow the sales and use taxes deposited into the tax increment fund to be disbursed from the fund to satisfy obligations incurred for the reinvestment zone.

The Act amends Section 311.014, Tax Code, to allow money to be disbursed from the tax increment fund to repay obligations incurred by the zone in addition to those payments already authorized by Subsection (b). The Act requires that all obligations incurred for the zone be paid before any money remaining in the tax increment fund be paid to the municipality or county that created the reinvestment zone. The Act allows a taxing unit that levies taxes on real property in a reinvestment zone to make a loan to the board of directors of the zone for deposit in the tax increment fund for the zone if the governing body of the taxing unit determines that the loan is beneficial to, and serves a public purpose of, the taxing unit. The loan is payable on the terms agreed to by the taxing unit, or an instrumentality of the taxing unit if applicable, and the board of directors of the zone. Such a loan is not considered to be a tax increment bond or note, but is considered an authorized investment and an obligation incurred for the zone.

The Act amends Section 311.017 to state that a reinvestment zone may terminate once all project costs, tax increment bonds and interest on the bonds, and all other obligations have been paid in full. The Act also adds to the conditions under which a tax increment may be discharged and the reinvestment zone terminated a requirement that there be sufficient funds placed in escrow to pay the principal of and interest on any obligations incurred on behalf of the zone in addition to those already described in Subsection (b).

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

EFFECTIVE DATE

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