

SENATE AMENDMENTS

2nd Printing

By: Miklos

H.B. No. 1770

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the designation of an area as a reinvestment zone under
3 the Tax Increment Financing Act.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 311.003(a), Tax Code, is amended to read
6 as follows:

7 (a) The governing body of a county by order may designate a
8 contiguous geographic area in the county and the governing body of a
9 municipality by ordinance [~~or the governing body of a county by~~
10 ~~order~~] may designate a contiguous or noncontiguous geographic area
11 that is in the corporate limits of the municipality, in the
12 extraterritorial jurisdiction of the municipality, or in both [~~in~~
13 ~~the jurisdiction of the municipality or county~~] to be a
14 reinvestment zone to promote development or redevelopment of the
15 area if the governing body determines that development or
16 redevelopment would not occur solely through private investment in
17 the reasonably foreseeable future. The designation of an area that
18 is wholly or partly located in the extraterritorial jurisdiction of
19 a municipality is not affected by a subsequent annexation of real
20 property in the reinvestment zone by the municipality.

21 SECTION 2. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this

H.B. No. 1770

1 Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Atty Gen
Secretary of the Senate

By: MIKLOS (WENTWORTH)

H.B. No. 1770

Substitute the following for H.B. No. 1770:

By: Dewell

C.S. H.B. No. 1770

A BILL TO BE ENTITLED

AN ACT

relating to the Tax Increment Financing Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 311.003(a), Tax Code, is amended to read as follows:

(a) The governing body of a county by order may designate a contiguous geographic area in the county and the governing body of a municipality by ordinance [~~or the governing body of a county by order~~] may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both [~~in the jurisdiction of the municipality or county~~] to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future. The designation of an area that is wholly or partly located in the extraterritorial jurisdiction of a municipality is not affected by a subsequent annexation of real property in the reinvestment zone by the municipality.

SECTION 2. Section 311.012(a), Tax Code, is amended to read as follows:

(a) The amount of a taxing unit's tax increment for a year is the amount of property taxes levied and assessed by the unit for that year on the captured appraised value of real property taxable

1 by the unit and located in a reinvestment zone or the amount of
2 property taxes levied and collected by the unit for that year on the
3 captured appraised value of real property taxable by the unit and
4 located in a reinvestment zone. The governing body of a taxing unit
5 shall determine which of the methods specified by this subsection
6 is used to calculate the amount of the unit's tax increment.

7 SECTION 3. Sections 311.013(c) and (i), Tax Code, are
8 amended to read as follows:

9 (c) Notwithstanding any termination of the reinvestment
10 zone under Section 311.017(a), a [A] taxing unit shall make a
11 payment required by Subsection (b) not later than the 90th day after
12 the delinquency date for the unit's property taxes. A delinquent
13 payment incurs a penalty of five percent of the amount delinquent
14 and accrues interest at an annual rate of 10 percent.

15 (i) Notwithstanding Subsection (c) and Section 311.012(a),
16 a taxing unit is not required to pay into a tax increment fund the
17 applicable portion of a tax increment attributable to delinquent
18 taxes until those taxes are collected.

19 SECTION 4. Section 311.017, Tax Code, is amended by amending
20 Subsection (a) and adding Subsection (a-1) to read as follows:

21 (a) A reinvestment zone terminates on the earlier of:

22 (1) the termination date designated in the ordinance
23 or order, as applicable, creating the zone or an earlier or later
24 termination date designated by an ordinance or order adopted
25 subsequent to the ordinance or order creating the zone; or

26 (2) the date on which all project costs, tax increment
27 bonds and interest on those bonds, and other obligations have been

1 paid in full.

2 (a-1) Notwithstanding the designation of a later
3 termination date under Subsection (a), a taxing unit that taxes
4 real property located in the reinvestment zone, other than the
5 municipality or county that created the zone, is not required to pay
6 any of its tax increment into the tax increment fund for the zone
7 after the termination date designated in the ordinance or order
8 creating the zone unless the governing body of the taxing unit
9 enters into an agreement to do so with the governing body of the
10 municipality or county that created the zone.

11 SECTION 5. (a) The legislature validates and confirms all
12 governmental acts and proceedings of a municipality or county that
13 were taken before the effective date of this Act and relate to or
14 are associated with the extension of the term of a reinvestment zone
15 created by the municipality or county under Chapter 311, Tax Code,
16 as of the dates on which they occurred. The acts and proceedings
17 may not be held invalid because they were not in accordance with
18 Chapter 311, Tax Code, or other law.

19 (b) Subsection (a) of this section does not apply to any
20 matter that on the effective date of this Act:

21 (1) is involved in litigation if the litigation
22 ultimately results in the matter being held invalid by a final
23 judgment of a court; or

24 (2) has been held invalid by a final judgment of a
25 court.

26 SECTION 6. This Act applies only to a taxing unit's tax
27 increment for a period occurring on or after the effective date of

1 this Act. A taxing unit's tax increment for a period occurring
2 before the effective date of this Act is governed by the law in
3 effect for such period, and the former law is continued in effect
4 for that purpose.

5 SECTION 7. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: Nichols

1 Amend C.S.H.B. No. 1770 (senate committee report) by adding
2 the following SECTIONS to the bill, appropriately numbered, and
3 renumbering the subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subsection (a), Section 311.006, Tax Code, is
5 amended to read as follows:

6 (a) A municipality may not create a reinvestment zone if:

7 (1) more than 10 percent of the property in the
8 proposed zone, excluding property that is publicly owned, is used
9 for residential purposes; or

10 (2) the total appraised value of taxable real property
11 in the proposed zone and in existing reinvestment zones exceeds:

12 (A) 20 percent of the total appraised value of
13 taxable real property in the municipality and in the industrial
14 districts created by the municipality, if the municipality is the
15 county seat of a county:

16 (i) that is adjacent to a county with a
17 population of 3.3 million or more; and

18 (ii) in which a planned community is
19 located that has 20,000 or more acres of land, that was originally
20 established under the Urban Growth and New Community Development
21 Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to
22 restrictive covenants containing ad valorem or annual variable
23 budget-based assessments on real property; or

24 (B) 15 percent of the total appraised value of
25 taxable real property in the municipality and in the industrial
26 districts created by the municipality, if Paragraph (A) does not
27 apply to the municipality.

28 SECTION _____. Section 311.006(a), Tax Code, as amended by
29 this Act, applies only to a reinvestment zone created on or after

1 the effective date of this Act. The creation of a reinvestment zone
2 before the effective date of this Act is covered by the law in
3 effect immediately before the effective date of this Act, and the
4 former law is continued in effect for that purpose.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1770 by Miklos (Relating to the Tax Increment Financing Act.), **As Passed 2nd House**

To the extent that provisions of the bill would result in the inclusion of more property and longer durations in tax increment financing agreements, the provisions would create a cost to taxing units and the state. Because information necessary to estimate the amount of new property or extensions of tax increment financing agreements is not available, there would be an indeterminable cost to the state.

The bill would amend several provisions of Chapter 311 of the Tax Code, regarding the Tax Increment Financing Act.

The bill would expand the authority of a municipality to designate non-contiguous areas within its corporate limits, in its extraterritorial jurisdiction, or in both as a reinvestment zone. It would also add to the conditions under which a municipality would be prohibited from creating a reinvestment zone in an area, and stipulates that those new conditions would apply only to the creation of a zone on or after the effective date of the bill.

The would add the amount of property taxes levied and assessed on the captured appraised value located in the reinvestment zone as an option for calculating the amount of the tax increment.

The bill would clarify that notwithstanding any termination of the reinvestment zone under Section 311.017(a), the taxing unit would still be required to make payments to the fund that are specified under Section 311.013(b). This section would also clarify that notwithstanding Section 311.012(a), a unit would not be required to pay into the fund any tax increment attributable to uncollected taxes until those taxes are collected.

The bill would allow the termination date for a reinvestment zone to be extended by the creating unit. A taxing unit other than the zone's creating unit would not be required to continue to participate during the extended period.

The bill would specify that the Legislature validates and confirms all governmental acts and proceedings of a city or county that were taken before the effective date of the bill with certain exceptions.

Certain provisions of the bill would only apply to a tax increment for a period occurring on or after the effective date of the bill.

Under a tax increment financing agreement, all or a portion of the incremental taxes collected in the zone are forwarded into a Tax Increment Fund (TIF). Under the hold harmless provisions of House Bill 1, Seventy-ninth Legislature, Third Called Session, 2006, school district taxes that are forwarded into a TIF are subtracted from school district collections, increasing state funding. According to the Comptroller of Public Accounts, to the extent that school districts agree to continue participating in reinvestment zones for which the originating city or county has extended the termination date, there would be a cost to the state. Costs would depend on the future actions of cities and counties regarding reinvestment zone extensions, and future decisions of school districts about whether to continue

participating in extended reinvestment zones.

Additionally, cities and counties could lose revenue to the extent that the bill results in the inclusion of more property in reinvestment zones, results in longer reinvestment zone terms, or validates actions that were invalid under current law if these actions caused higher tax increments. Because of a lack of data on these items the fiscal impact on cities and counties cannot be determined.

Local Government Impact

Based on analysis from the Comptroller of Public Accounts, for the reasons stated above, the fiscal impact to units of local government cannot be estimated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, JRO, SD, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable Chris Harris, Chair, Senate Committee on Economic Development

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1770** by Miklos (Relating to the Tax Increment Financing Act.), **Committee Report 2nd House, Substituted**

To the extent that provisions of the bill would result in the inclusion of more property and longer durations in tax increment financing agreements, the provisions would create a cost to taxing units and the state. Because information necessary to estimate the amount of new property or extensions of tax increment financing agreements is not available, there would be an indeterminable cost to the state.

The bill would amend several provisions of Chapter 311 of the Tax Code, regarding the Tax Increment Financing Act.

SECTION 1 of the bill would expand the authority of a municipality to designate non-contiguous areas within its corporate limits, in its extraterritorial jurisdiction, or in both as a reinvestment zone.

SECTION 2 would add the amount of property taxes levied and assessed on the captured appraised value located in the reinvestment zone as an option for calculating the amount of the tax increment.

SECTION 3 would clarify that notwithstanding any termination of the reinvestment zone under Section 311.017(a), the taxing unit would still be required to make payments to the fund that are specified under Section 311.013(b). This section would also clarify that notwithstanding Section 311.012(a), a unit would not be required to pay into the fund any tax increment attributable to uncollected taxes until those taxes are collected.

SECTION 4 would allow the termination date for a reinvestment zone to be extended by the creating unit. A taxing unit other than the zone's creating unit would not be required to continue to participate during the extended period.

SECTION 5 would specify that the Legislature validates and confirms all governmental acts and proceedings of a city or county that were taken before the effective date of the bill with certain exceptions.

SECTION 6 would provide that the provisions of the bill would only apply to a tax increment for a period occurring on or after the effective date of the bill.

Under a tax increment financing agreement, all or a portion of the incremental taxes collected in the zone are forwarded into a Tax Increment Fund (TIF). Under the hold harmless provisions of House Bill 1, Seventy-ninth Legislature, Third Called Session, 2006, school district taxes that are forwarded into a TIF are subtracted from school district collections, increasing state funding. According to the Comptroller of Public Accounts, to the extent that school districts agree to continue participating in reinvestment zones for which the originating city or county has extended the termination date, there would be a cost to the state. Costs would depend on the future actions of cities and counties regarding reinvestment zone extensions, and future decisions of school districts about whether to continue participating in extended reinvestment zones.

Additionally, cities and counties could lose revenue to the extent that the bill results in the inclusion of more property in reinvestment zones, results in longer reinvestment zone terms, or validates actions that were invalid under current law if these actions caused higher tax increments. Because of a lack of data on these items the fiscal impact on cities and counties cannot be determined.

Local Government Impact

Based on analysis from the Comptroller of Public Accounts, for the reasons stated above, the fiscal impact to units of local government cannot be estimated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, JRO, SD, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable Chris Harris, Chair, Senate Committee on Economic Development

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1770 by Miklos (Relating to the designation of an area as a reinvestment zone under the Tax Increment Financing Act.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would authorize a municipality by ordinance to designate a noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction (ETJ) of the municipality, or in both to be a reinvestment zone. An area that is wholly or partly located in the municipality's ETJ would not be affected by a subsequent annexation by the municipality of real property in the reinvestment zone.

Under current statute, only a contiguous geographic area may be designated as part of the reinvestment zone.

Local Government Impact

It is assumed that a municipality would add applicable noncontiguous areas to a reinvestment zone only if the municipality considered the designation to have a positive benefit. The fiscal impact would vary by municipality.

Source Agencies:

LBB Staff: JOB, JRO, MN, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 6, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1770 by Miklos (Relating to the designation of an area as a reinvestment zone under the Tax Increment Financing Act.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would authorize a municipality by ordinance to designate a noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction (ETJ) of the municipality, or in both to be a reinvestment zone. An area that is wholly or partly located in the municipality's ETJ would not be affected by a subsequent annexation by the municipality of real property in the reinvestment zone.

Under current statute, only a contiguous geographic area may be designated as part of the reinvestment zone.

Local Government Impact

It is assumed that a municipality would add applicable noncontiguous areas to a reinvestment zone only if the municipality considered the designation to have a positive benefit. The fiscal impact would vary by municipality.

Source Agencies:

LBB Staff: JOB, MN, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

April 7, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1770 by Miklos (Relating to the designation of an area as a reinvestment zone under the Tax Increment Financing Act.), **As Introduced**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, MN

