

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 25, 2021**

**TO:** Honorable Morgan Meyer, Chair, House Committee on Ways & Means

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3267** by Kuempel (Relating to a restriction on the use of money in the tax increment fund for a tax increment financing reinvestment zone created by certain home-rule municipalities.), **As Introduced**

**No fiscal implication to the State is anticipated.**

This bill would amend Chapter 311, Tax Code (Tax Increment Financing Act), regarding the use of money in the local tax increment fund for a tax increment reinvestment zone created by a home-rule municipality.

The bill would add Section 311.0088, to prohibit the use of tax increments in tax increment reinvestment zones (TIRZ). The bill would apply only to a development agreement, project plan, or financing plan designated by a home-rule municipality which includes property that before 2003 was annexed by a city for limited purposes; was subject to an annexation petition signed by a majority of property owners and filed with the city under Local Government Code, Sections 43.028 or 43.052(h)(2); and by ordinance adopted after September 1, 2005 was annexed by the municipality for full purposes.

The bill would prohibit a development agreement, project plan, or financing plan from including a provision requiring the money in the tax increment fund established in the TIRZ to be paid to the municipality that created the zone to pay the cost of services provided to the zone by the municipality or reimburse the municipality for cost of services previously provided in the zone by the municipality.

The bill would provide that if a development agreement, project plan, or financing plan conflicts with the prohibition, then the provision would be void and the remaining provisions of the development agreement, project plan, or financing plan would be held enforceable.

The bill would require a municipality that received a disbursement from a tax increment fund under a provision of a development agreement, project plan, or financing plan in violation of the prohibition, to reimburse the fund the amount it received.

The bill would allow a party to a development agreement, project plan, or financing plan that is in violation of the prohibition to file a lawsuit to have a provision of the agreement or plan declared void and to enforce the remaining provisions of the agreement or plan by injunctive relief or mandamus. The party who prevails would be entitled to be awarded reasonable attorney fees and court costs. Sovereign immunity to lawsuit and liability would be waived and abolished to the extent of liability created by the bill.

Added Section 311.0088 would apply to a development agreement, project plan, or financing plan regardless of the date the agreement or plan was approved or adopted by the parties to the agreement or plan.

The bill would have no fiscal implications for the state, or units of local government other than cities with the requisite annexation history and development agreement provisions. The cities affected by the bill are unknown, and the fiscal implications cannot be estimated.

This bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2021.

## **Local Government Impact**

The bill would have no fiscal implications for units of local government other than cities with the requisite annexation history and development agreement provisions. The cities affected by the bill are unknown; consequently the fiscal implications on cities cannot be estimated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JMc, KK, SD, BRI