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Local Development Finance Authorities: An Overview

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Introduction

Generally, the Recodified Tax Increment Financing (TIF) Act allows a municipality to establish a TIF authority (authority) and allows an authority to determine how the captured taxable value of each parcel of eligible property in a development area may be spent. Captured taxable value is the incremental increase of an eligible property's initial taxable value determined when that eligible property became part of a TIF plan. An authority may capture property tax revenue from incremental increases in the eligible property's value and spend it to develop property. Authorities regularly spend these funds to retire debt issued to finance a project or to improve eligible property.

Part 4 of the Act provides for the creation of local development finance authorities (LDFAs), which may be created to alleviate regional unemployment. These authorities are also called SmartZones. According to a Department of Treasury report, at the end of fiscal year (FY) 2022-23, there were 79 LDFAs throughout the State. The Ann Arbor/Ypsilanti SmartZone generated the most revenue, at around \$4.9 million, while the City of Clare's LDFA generated the least, around \$5,077. Seven LDFAs reported no revenue. The following provides an overview of LDFAs.

Eligibility & Creation

A municipality may establish one LDFA, which exercises its authority in all of the municipality's authority districts. A municipality also may partner with other municipalities in the same county to create an LDFA; however, an LDFA established under these terms may only exercise its powers in a certified technology park or certified alternative energy park. A Next Michigan Development Corporation (NMDC) also may establish an LDFA, which may exercise power within its authority district and in all Next Michigan development areas. Generally, the Next Michigan Development Act authorizes the Michigan Strategic Fund (MSF) to designate up to seven NMDCs, made up of local government units that enter an agreement to form a corporation. Among other criteria, an application must demonstrate evidence of significant job creation potential. Next Michigan Development Corporations may attract eligible next Michigan businesses to their development districts by offering Renaissance Zone certification (MCL 125.2688h), property tax exemptions (MCL 211.9f), industrial facilities exemption certificates (MCL 207.572), and TIF through the creation of an LDFA.

The governing body of a municipality may declare by resolution its intention to create and operate an LDFA. This resolution must include a date for a public hearing to consider the LDFA and designate the boundaries of the authority district or districts. At least 20 days before the hearing, the governing body must notify property taxpayers in the proposed district and the governing body of each taxing jurisdiction levying taxes that would be subject to capture. The governing body of a taxing jurisdiction with millage that otherwise would be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality; however, such a resolution would be ineffective for the capture of taxes used for a certified technology park or a certified alternative energy park.

At least 60 days after the hearing, if the municipality's governing body wishes to establish an authority, it may adopt a resolution that does so and designates the district's boundaries. The resolution must be filed with the Secretary of State. If multiple municipalities wish to partner to create an LDFA, each

municipality in which the authority district will be located must comply with these requirements. The board of an NMDC also must comply with these requirements if it intends to create an LDFA. To amend authority district boundaries, a municipality or NMDC must follow this process. A municipality or NMDC also may dissolve an LDFA.

The Act allows the Michigan Economic Development Corporation (MEDC) to designate up to 10 certified technology parks. To do so, a municipality that has created an LDFA may apply to the MEDC. Its application must demonstrate the fulfillment of certain criteria, including support or commitment from an institution of higher education, a private research-based institute, or a large, private corporate research and development center located within the proximity of the proposed park. It also includes the existence or proposed development of a business incubator within the proposed park. A municipality that has created an LDFA also may apply to the MEDC for designation of all or a portion of the authority district as a certified alternative energy park. Its application must demonstrate the existence of, or strong likelihood of, attracting alternative energy technology businesses to the proposed park.

Authority Boards

Generally, an LDFA is overseen by a board composed of 11 members. A board must include a member appointed by the county board of commissioners and a member representing a community or junior college in whose district the authority is located. Two members must be appointed by the CEO of each local governmental unit, other than the municipality that created the authority, that levied 20% or more of the taxes on property within an authority district during the prior year. A board may study and analyze unemployment, acquire and construct public facilities and property, improve land, and develop and undertake long-term plans to create jobs and promote economic growth.

Funding

Generally, an LDFA may be financed by contributions, revenue generated by any property operated by the authority, TIF revenue, proceeds from tax increment and revenue bonds, and loans from the MSF or the MEDC. Generally, the MEDC's Entrepreneurship Eco-System line item includes funding for LDFAs. For example, by the end of FY 2022-23, the MEDC had committed \$2.4 million of these funds to six LDFAs across the State.

Planning Requirements

When considered necessary, an authority must prepare and submit a TIF plan to its municipality's governing body. A TIF plan must include a detailed explanation of the TIF procedure, the maximum amount of bonded indebtedness to be incurred, and a clear statement of the portion of captured assessed value to be used. An LDFA also must explain why the plan would result in the development of captured assessed value that otherwise could not be expected and include an estimate of the revenue for each year of the plan. If an LDFA board decides to finance a project, it also must prepare a development plan, which must contain, among other things, a legal description of the property in question, a construction schedule, notice of desired zoning changes, a cost estimate, and more.

Conclusion

A municipality or NMDC seeking to attract business and create jobs may create an LDFA. While LDFAs are funded by the MEDC, they also generate revenue through TIF. Generally, requirements for the creation and operation of LDFAs are like that of other TIF authorities; however, an LDFA's allowed activities are tailored to strengthen public-private connections and grow business.