

Economic Development Tools—Waterfront TIF

Introduction

A Water Resource Improvement Tax Increment Financing Authority (Waterfront TIF) allows the use of tax increment financing to control invasive species in inland lakes as well as to make necessary improvements to infrastructure on waterfronts.

Authorizing Legislation

PA 57 of 2018, MCL 125.4101 et seq., authorizes a city, village, or township to create a Waterfront TIF.

What Is the Purpose of the Act?

Some local governments have been struggling to fund efforts to control invasive species in inland lakes, as well as to make necessary improvements to infrastructure on land that is within one mile from the lake and that contains two or more public access points. This Act provides a tool for cities, villages, and townships to finance such improvements.

How Can this Act be Used?

Specifically, this Act allows TIF funds to be used to eliminate the causes and proliferation of aquatic nuisance species but does not allow chemical treatment of the water in order to control these species. It also provides that these funds can be used to replace failing infrastructure, including on-site disposal systems for sanitary sewers and for stormwater sewer improvements.

Several municipalities may establish an authority cooperatively, e.g., several local units on the same lake. In addition, a municipality may establish multiple authorities, but a parcel of property may not be included in more than one authority.

How Is this Act Different?

This Act is designed to deal with the limited and specific problems many municipalities are facing with inland lakes. An opt-out opportunity for other taxing units occurs during the plan adoption process instead of during the Authority creation process.

What Are the Financing Options?

- Tax increment revenues
- Sale of bonds
- Donations
- Revenues from property or facilities owned or leased by the Authority
- Special assessments

Establishing a Water Resource Improvement Authority

Note: The following steps are offered as general guidelines only. A municipality should consult with an attorney prior to initiating the process of creating a Waterfront TIF.

1. Adopt a resolution declaring intent.
2. Publish notice of a public hearing 20-40 days before the hearing, post the notice 20 days before the hearing in 20 places and mail the notice to the governing body of each taxing jurisdiction 20 days before the hearing.
3. Hold public hearing on the establishment of the authority and on the boundaries of the development area.
4. Adopt an ordinance not less than 60 days following the public hearing establishing the authority and designating the boundaries of the proposed development area.
5. File and publish the ordinance.
6. Appoint the board.

Reporting Requirements

See p 4-6 (attached to this Fact Sheet) for 2019 reporting and public informational meeting requirements.

Provisions of the Waterfront TIF Act

- Authorizes a city, village, or township to create one or more Waterfront Resource Improvement Tax Increment Financing Authorities by ordinance after providing notice and holding a public hearing. The local unit shall also designate the development area boundaries by the ordinance.
- Provides for the supervision and control of an authority by a board that includes the city, village, or township chief executive officer or his or her designee and five to nine additional members. At least one member of the board shall be a resident of the district or of an area within ½ mile of the district and a majority of the board shall have an ownership or business interest in the development area.
- Allows a board to hire a director to serve as chief executive officer of the authority, subject to the approval of the city, village or township governing body and other personnel as the board feels necessary.
- Allows an authority to prepare and submit to the city, village, or township governing body a tax increment financing plan, which must include a development plan for the authority's development area. TIF plans and development plans are subject to public hearings and affected local taxing jurisdictions must be notified. The governing body of another taxing jurisdiction may, by resolution, exempt its taxes from capture during the plan adoption process. Further, taxes levied for public library purposes which are approved by voters after December 31, 2016, are exempt from capture unless a library board allows all or a portion of its taxes to be included as tax increment revenues under the terms of a written agreement with an authority.
- Provides for the financing of authority activities, including borrowing money and issuing bonds. The authority can issue negotiable revenue bonds under the Revenue Bond Act and can, with local unit approval, issue revenue bonds or notes to finance all or part of the costs of acquiring or constructing property. The local unit is not liable on such debt.
- Allows an authority to authorize, issue, and sell tax increment bonds to finance a TIF plan's development program. A city, village, or township may make a limited tax pledge to support the authority's TIF bonds or notes with governing body approval but needs voter approval to pledge its unlimited full faith and credit for authority bonds or notes.
- Requires a city, village, or township to dissolve an authority after it has completed its purpose and provides that the authority's property and assets remaining after the satisfaction of its obligations would belong to the local unit.
- Allows the governing body, at the request of the Waterfront TIF Authority board, from time to time, to amend either the development or TIF plans. It may also amend the boundaries of the development area. However, caution should be taken amending either the plan or the boundaries as the other taxing units (county, schools, etc.) may opt out.

Waterfront Improvement Authority Board Powers

- Preparing an analysis of water resource improvements and access to inland lakes issues taking place in the development area.

- Studying and analyzing the need for water resource improvements and access to inland lakes upon the development area.
- Planning and proposing the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility that may be necessary for a plan that the board believes will aid in water resource improvement to access to inland lakes in the development area. The board is encouraged to develop a plan that conserves the natural features, reduces impervious surfaces, and uses landscaping and natural features to reflect the predevelopment site.
- Planning, proposing, and implementing an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code
- Developing long-range plans for water resource improvement and access to inland lakes within the district.
- Implementing in the development area any plan to achieve the purposes of the Act.
- Making and entering into contracts to exercise its powers and the performance of its duties.
- Acquiring, owning, conveying, or otherwise disposing of, or leasing land and other real or personal property necessary to achieve the purposes of the Act, and granting or acquiring licenses, easements, and options.
- The ability to improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, clear, improve, maintain, and repair, any public facility, building and any necessary or desirable appurtenances and to operate a water resource improvement necessary to achieve the purposes of the Act.
- The ability to fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property it controls and pledge the collections for the payment of revenue bonds issued by the authority.
- Lease, in whole or in part, any facility, building, or property under its control.
- Accepting from public and private sources, grants and donations of property, labor, or other things of value.
- Acquiring and constructing public facilities.
- Preparing a water resource management plan in consultation with DEQ, DNR or any other entity with expertise in water quality management and invasive species management.

Definitions

Water resource improvement: Enhancement of water quality and water-dependent natural resources, including the following:

- The elimination of the causes and proliferation of aquatic nuisance species, as defined in section 3101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3101;
- Sewer systems that replace failing, on-site disposal systems;
- Stormwater systems; and
- Dredging, removal of spoils, or other enhancements or improvements that enhance navigability of a waterway.

Water resource improvement district (1) An inland body of water and land up to one mile from the shoreline of the inland lake that also contains at least one public access point; (2) an inland body of water contiguous to the shoreline of an inland lake that does not contain a public access point; or (3) the shoreline of a harbor on a Great Lake and one or more of the following: (A) Land up to one mile from the shoreline of the harbor; (B) A tributary to that Great Lake harbor up to five miles upstream from the shoreline of the Great Lake harbor; (C) Land up to one mile from each bank of the tributary described in (B).

Inland Lake: A natural or artificial lake, pond or impoundment. The term does not include the Great Lakes, Lake St. Clair, or a lake or pond that has a surface area smaller than five acres.

This publication was written by the law firm of Miller Canfield.