

New Law Consolidates Tax Increment Authorities, Imposes New Reporting Requirements

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Tax increment authorities and municipalities face new transparency and reporting requirements under a recently signed law.

The Recodified Tax Increment Financing Act, 2018 PA 57 (“Act 57”) was signed by Gov. Rick Snyder on March 15, 2018. It consolidates the legislative authority to create and operate tax increment authorities (other than brownfield redevelopment authorities) into a single statute and repealed the following acts:

- Downtown Development Authority Act (1975 PA 197)
- Tax Increment Finance Authority Act (1980 PA 450)
- Local Development Finance Authority Act (1986 PA 281)
- Nonprofit Street Railway Act (1867 PA 35)
- Corridor Improvement Authority Act (2005 PA 280)
- Water Resource Improvement Tax Increment Finance Authority Act (2008 PA 94)
- Neighborhood Improvement Authority Act (2007 PA 61)

While all authorities created or operating under the consolidated statutes will continue under Act 57, Act 57 also repealed the Historical Neighborhood Tax Increment Finance Authority Act (2004 PA 530) and the Private Investment Infrastructure Funding Act (2010 PA 250).

Act 57 states that a bond, note, or any other obligation or refunding of any obligation issued by an authority or by the municipality that created the authority under a statute repealed by Act 57 shall continue in effect under its original terms under the corresponding part of Act 57.

Act 57 imposes new, uniform reporting requirements on most authorities and their related municipalities, authorizes the Michigan Department of Treasury to enforce Act 57, and prohibits authorities in breach of these reporting requirements from capturing tax increment revenues in excess of the amounts necessary to pay bonded indebtedness and other obligations of the authority for the period of noncompliance. The initial reporting requirement occurs within 90 days of Act 57’s effective date of Jan. 1, 2019, when each authority must send Treasury a copy of, or an email link to, its currently adopted development plan or its currently adopted tax increment finance plan.

Act 57 also requires an authority to submit a comprehensive annual report to Treasury and the governing bodies of its related municipality and of each taxing unit levying taxes subject to capture by the authority. The annual report is due at the same time as the authority’s annual audit under the Uniform Budgeting and Accounting Act, 1968 PA 2 (generally within six months of the end of its fiscal year), and must include detailed information related to the capture and use of tax increment revenues.

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Commencing 180 days after the end of an authority's current fiscal year as of the effective date, Act 57 will require a municipality that has created an authority to provide access to a prescribed list of authority records and documents either electronically on the municipality's regularly operated website or at a physical location within the municipality. These records include an authority's board minutes, along with financial (budgets and audits), administrative (staff contact information), and operational (development and tax increment financing plans and current authority contracts) records for a five-year phase-in period. Additionally, the municipality must include an annual synopsis of the authority's activities, including information related to unused captured tax increment revenues, and, for the immediately preceding fiscal year, lists of the authority's accomplishments, projects and investments, and events and promotional campaigns.

In addition to the reporting requirements, an authority must hold at least two informational meetings each year and 14-day advance notice to the public and to the governing body of each taxing unit.

If you have any questions about the Recodified Tax Increment Financing Act, please contact your Miller Canfield Public Finance attorney.