

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 385

PRINTER NO. 500

AMOUNT

\$700,000 (Maximum Annual Cost)

FUND

General Fund

DATE INTRODUCED

February 3, 2015

PRIME SPONSOR

Senator Pileggi

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 385 amends the Transit Revitalization Investment District Act (Act 238 of 2004) to reform and modernize the act and to provide for an additional funding mechanism for Transit Revitalization Investment Districts ("TRIDs").

Senate Bill 385 adds a definition of "management entity" to include either of the following:

1. A participating municipality or transit agency.
2. A redevelopment authority, municipal authority, neighborhood improvement district, business improvement district or a similar governmental or nonprofit organization authorized to act in a manner consistent with the TRID planning study and with a services area compatible with the TRID.

The legislation provides that a TRID and its boundaries shall be established by ordinance. The participating municipality or county and the transit agency shall designate the management entity in the TRID agreement to administer, manage and facilitate the implementation of the TRID planning study.

Senate Bill 385 clarifies that a 25% match from the municipality or county is required in order to receive funding for a TRID planning study through the Department of Community and Economic Development.

A TRID or a TRID planning study may be amended under certain conditions and the following shall apply:

- The boundaries of a TRID may be expanded or reduced by an amendment to the ordinance establishing the TRID and shall be accompanied by justification for the boundary change supported by findings in the original or amended TRID planning study.
- A TRID planning study may be amended by approval of the municipality, municipalities or counties and the transit agency that are parties to the TRID designation.

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The legislation updates the existing provisions related to value capture areas so that local taxing bodies shall approve that portion of revenues which shall be dedicated to support TRID implementation and that portion which shall be dedicated for general government purposes. A public transportation agency may not use the revenues for a transit capital investment outside of a designated TRID except if the investment is necessary and integral to achieve an approved TRID implementation objective. The use of incremental tax revenue generated by a TRID property may be directed for use in TRID projects for up to 20 years from the date a property is designated as a TRID.

Capture of TRID Tax Revenue:

Senate Bill 385 establishes a new chapter 8 in the act relating to the Capture of TRID Tax Revenue. Chapter 8 defines "baseline year" as the calendar year the Department of Revenue approved the TRID as a recipient of tax revenue generated within the TRID. An "eligible project" is defined as development or improvement within a TRID, including construction, infrastructure and site preparation, reconstruction or renovation of a facility within a TRID which will result in economic development or transit-oriented development in accordance with the TRID and the TRID planning study.

The legislation defines an "eligible tax" as any of the following taxes if generated within an area of not more than 100 acres, comprised of parcels designated by the management entity:

1. Corporate net income tax, capital stock and franchise tax or bank shares tax, calculated and apportioned as to the amount attributable to the location within the TRID.
2. Sales and use tax, only to the extent the tax is related to the activity of a qualified business within the TRID.
3. Personal income tax withheld from its employees by a qualified business for work performed in the TRID.
4. Tax paid to the Commonwealth on the sale of liquor, wine or malt or brewed beverages in the TRID.

A "qualified business" is defined as follows:

1. An entity located or partially located in a TRID which meets the following requirements:
 - Has conducted an active trade or business in the TRID.
 - Appears on the timely filed list submitted by the management entity pursuant to the provisions of the chapter.

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2. A construction contractor engaged in construction, including infrastructure or site preparation, reconstruction or renovation of a facility located in or partially in the TRID.
3. The term does not include an agent, broker or representative of the business.

A "TRID fund" is defined as a fund established pursuant to the provisions of the chapter.

A management entity may apply to the Department of Community and Economic Development ("DCED") to establish a TRID fund for the purposes of funding an eligible project or for covering debt service payments. DCED and the Department of Revenue are required to approve or disapprove each application within 90 days of the submission. A management entity may reapply if the application is not approved.

Senate Bill 385 provides that DCED shall have the authority to approve only two applications under chapter 8.

A management entity may borrow money for the purposes of executing a TRID or TRID planning study for which a TRID fund has been approved. A member of the management entity is prohibited from receiving money directly or indirectly from the TRID fund.

By June 1 following the end of the baseline year, and for every year thereafter, each management entity shall file a complete list of all businesses located in the TRID and all construction contractors engaged in construction, reconstruction or renovation of a facility in the TRID in the prior calendar year. Following notification by a management entity of an approved application, the State Treasurer shall establish for each TRID a special fund for the benefit of the management entity.

By June 15 following the baseline year, and each year thereafter, each qualified business shall file a report with the Department of Revenue that includes all of the following:

1. The amount of each eligible tax which was paid to the Commonwealth by the qualified business in the prior calendar year.
2. The amount of each eligible tax refund received from the Commonwealth in the prior calendar year by the qualified business.

By October 15 following the end of the baseline year, and for each year thereafter, the Department of Revenue shall verify the State baseline tax amount which consists of 75% of taxes paid by qualified businesses. Within 10 days of receiving the certified TRID tax amount from the Department of Revenue, the Office of the Budget shall direct the State Treasurer to transfer the amount of certified TRID tax revenues from the General Fund to each TRID fund.

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Senate Bill 385 provides that such transfer shall not exceed \$350,000 per year to each TRID fund.

If the revenue transferred to a TRID fund is insufficient to make payments on bonds, the management entity shall notify DCED, the Office of the Budget and the Department of Revenue of the amount of additional money necessary to make payment on the bonds. Within 90 days, the Office of the Budget shall direct the State Treasurer to transfer the amount needed to make payments on the bonds from the General Fund to a restricted account for use by the management entity to make payments on the bonds. However, Senate Bill 385 provides that the amount transferred shall not exceed \$100,000. The additional transfer provisions are in effect for only the first seven calendar years following the baseline year.

Senate Bill 385 provides that under extraordinary circumstances, a management entity may request money in excess of the additional transfer limits subject to the discretion of DCED, the Office of the Budget and the Department of Revenue. Money transferred pursuant to the additional transfer provisions shall be repaid to the General Fund by the management entity. The municipalities or counties, and the transit agencies, are responsible for the repayments if the management entity fails to make the repayments.

TRID tax revenues transferred to a TRID fund may be used only for the following:

1. Payment of debts service on bonds issued for the construction, including related infrastructure and site preparation, reconstruction or renovation of a facility in the TRID.
2. Construction, including related infrastructure and site preparation, reconstruction or renovation of all or a part of a facility.
3. Replenishment of amounts in debt service reserve funds established to pay debt service on bonds.
4. Improvement or development of all or part of a TRID.
5. Improvement projects, including fixtures and equipment for a facility owned by a public authority.

Money transferred from the TRID fund for eligible projects must be matched by other sources of funding at a ratio of two fund dollars to one private dollar. The management entity shall file an annual report that contains a detailed accounting of the fund money expenditures and expenditures of funds from other sources, including a calculation of the two-to-one ratio for the prior calendar year.

A TRID fund shall be in effect for the amount of time required to complete any approved eligible project for which debt was not incurred or a period equal to the length of time for the repayment of debt incurred for the TRID, including bonds issued. Bonds shall be paid no later than 30 years following their initial issuance.

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The Commonwealth pledges to and agrees with any person, firm, corporation or government agency that the Commonwealth itself will not, nor will it authorize any government entity to do any of the following:

1. Abolish or reduce the size of the TRID.
2. Amend or repeal sections 808 or 809, which provide for the baseline year and tax revenue certifications.
3. Limit or alter the rights vested in the management entity in a manner inconsistent with the obligations of the management entity with respect to the bonds issued by the management entity.
4. Impair revenue to be paid under this chapter to the management entity necessary to pay debt service on bonds.

By December 31, 2016, DCED, the Office of the Budget and the Department of Revenue shall develop and publish guidelines necessary to implement chapter 8.

The act shall take effect in 60 days.

FISCAL IMPACT:

Senate Bill 385 could result in a General Fund revenue loss of up to \$700,000 in fiscal year 2015-16 and in fiscal years thereafter. The state tax capture mechanism established in chapter 8 would likely cause a fiscal impact, but such impact is limited to \$350,000 per year for each TRID fund. Furthermore, DCED is restricted to approving only two applications for the capture of TRID tax revenue. Assuming that two TRID applications are approved and would be eligible to receive funding of \$350,000 each, the annual cost would be \$700,000.

The legislation allows for an additional transfer of up to \$100,000 from the General Fund to each of the two TRID funds if the revenue transferred to a TRID fund is insufficient to make payments on bonds. However, it is expected that the tax capture revenue will be sufficient to make payments on bonds issued.

In addition to TRID funding, Senate Bill 385 places additional responsibilities on DCED. Because Senate Bill 385 limits DCED's approval to only two applications, personnel and operating costs should be minimal.