2014
SB 118 – PETE MILLER
SUMMARY – ON FINAL PASSAGE

Adds IC 36-7-14-0.5 to define the terms "obligation" and "public funds" for purposes of IC 36-7-14.

- An "obligation" is "any bond, note, warrant, lease, or other instrument under which money is borrowed."

- "Public funds" are "all fees, payments, tax receipts, and funds of whatever kind or character coming into the possession of the redevelopment commission or the department of redevelopment."

This is language we provided IACT in 2011.

Amends IC 36-7-14-2.5 to provide that the redevelopment commission may not enter into any obligation payable from public funds without obtain the prior approval of the legislative body of the unit. The ordinance or resolution approving the obligation must include:

- Maximum amount;
- Maximum interest rate or rates;
- Any provisions for redemption prior to maturity;
- Any provisions for the payment of capitalized interest; and
- Maximum term of the obligation.

The commission is not required to obtain the prior approval of the legislative body if the obligation is for the acquisition of real property under IC 36-7-14 and the agreement to acquire requires the commission to make payments for a period of three years or less; OR the purchase price for the real property is less than $5 million. **This language would permit the redevelopment commission to contract for the installment purchase of real estate without regard to price so long as the contract was for three years or less.**

Amends IC 36-7-14-3 to provide that commission and the department of redevelopment are subject to oversight by the legislative body of the unit, including a review of the annual budget of the commission and the department.

Expressly provides that the commission and the department are subject to

- audit by the state board of accounts; and (should probably be "examination") and
- public access laws (open door and public records).

Amends IC 36-7-14-8 to remove the commission's power to have a separate treasurer for the commission. Reiterates that commission funds are subject to the same laws applicable to all other funds and accounts under the fiscal officer's control require the treasurer of the commission to report annually to the fiscal body of the unit.

Amends IC 36-7-14-10 to provide that a commission member or nonvoting advisor who has at least a 10% interest in a business entity is deemed to be the owner for purposes of determining whether the member or advisor has a pecuniary interest in a project.

Amends IC 36-7-14-12.2 to: (i) remove the commission's power to exercise eminent domain in a redevelopment area; (ii) to limit financial assistance that may be provided to enable individuals and families to purchase residential units to units in a multiple unit residential structure. Adds language to require the prior approval of the fiscal body or legislative body of unit, **whichever applies?** for the exercise of a power by the commission that deals with the issuance of bonds or incurring an obligation.

Adds IC 36-7-14-12.4 to provide that: (i) the commission or department or an entity with power delegated to it by the commission or department may not own or hold or lease a single family dwelling or condominium unit, except when acting as a land bank for the unit; and (ii) provides that a project involving telecommunications equipment (such as fiber optic cabling), may not be financed with proceeds from an obligation if the telecommunication services that would be provided by the project are already being provided in the area.

Amends IC 36-7-14-13 to provides that a redevelopment commission and a department of redevelopment are subject to the same laws, rules, and ordinances of a general nature that apply to all other commissions or departments of the unit. **Our concern with this language is that the statutes governing sanitary districts are different than those governing redevelopment districts, which are different than the statutes governing park districts, which are different than the statutes governing storm water districts. Statutes governing municipal utilities are different than those governing the department of redevelopment. This language adds needless confusion and may call into question the validity of redevelopment commission actions.**

Amends IC 36-7-14-15 to provide that, when amending a declaratory resolution or plan to provide that the amending declaratory resolution and all supporting information must be submitted to the legislative body of the unit for approval, and requires the legislative body to approve the additional area as part of the redevelopment project area.

Amends IC 36-7-14-19 (acquisition of real property) to provide that any agreement of the redevelopment commission to make installments for the purchase or property for a period of three years or less; or to pay more than $5 million for the purchase of real property is subject to the prior approval of the legislative body of the unit. **This language would permit the redevelopment commission to contract for the installment purchase of real estate without regard to price so long as the contract was for three years or less. The prior approval may need to be expressed as a not to exceed amount.**

Amends IC 36-7-14-20 to give the unit's legislative body the power to exercise eminent domain in a redevelopment area, if the legislative body determines it is necessary.

Amends IC 36-7-14-22.5 (real property) to provide that: (i) previously acquired which the redevelopment commission determines is no longer required, following a public hearing; (ii) not

located in a redevelopment area, economic development area or urban renewal project area; (iii) not sold at tax sale and transferred to the commission; and (iv) donated or transferred to the commission to be disposed of) to provide that prior approval of the legislative body is required before real property may be disposed of, including in accordance with an urban homesteading program. Requires the commission to provide the legislative body, at a public meeting, all the information supporting the action the commission proposes to take, including any terms and conditions to which the commission would have to agree.

Amends IC 36-7-14-25.1 (authorization for bonds) to require the legislative body to adopt a resolution (but not THE bond resolution) that includes the public purpose, the use of bond proceeds, the maximum principal amount, maximum interest rate or rates, any redemption provisions, and any provisions for capitalized interest. Adds language provided that the amount of bonds payable from TIF may not exceed the amount authorized in the legislative body's resolution.

Amends IC 36-7-14-25.2 (leases) to require the prior approval of the fiscal body of a lease financing. The ordinance or resolution approving the lease must contain the maximum annual lease rental, the maximum interest rate or rates, redemption provisions, any provisions for capitalized interest and the maximum term of the lease.

Amends IC 36-7-14-27 (special benefits tax) to require prior approval of the legislative body of the special benefits levy.

Amends IC 36-7-14-27.5 to require the prior approval of the legislative body of the issuance of tax anticipation warrants.

Repeals IC 36-7-14-32.5 to remove the commission's power to dispose of certain real property for affordable housing or urban homesteading property.

Amends IC 36-7-14-39(b)(4) (TIF) to provide that: (i) a declaratory resolution or amendment that establishes an allocation provision must include a specific finding of fact, supported by evidence, that the adoption of the allocation provision will result in new property taxes in the area that would not have been generated but for the adoption of the allocation provision; (ii) for allocation areas established before July 1, 1995, the expiration date of any allocation provisions for the allocation area is June 30, 2025, or the last date of any obligations that are outstanding on July 14, 2015, whichever is later (leaves unchanged the expiration dates of allocation areas established **after** July 1, 1995.) (ii) if the amount of excess assessed value determined by the commission is expected to generate more than 200% of the amount of TIF necessary to make, when due, principal and interest payments on bonds, plus the amount necessary for other purposes described in subdivision (3) **(I think it means the TIF laundry list in (b)(3))**, the commission must submits its determination of excess assessed value that the commission proposes to allocate to the unit's legislative body. The legislative body may approve the determination or modify the amount so determined for allocation to the respective taxing units.

Amends IC 36-7-14-43 to provide that the exercise of any right, power, privilege or immunity related to the issuance of bonds by the commission for an economic development area must be

first specifically approved by the legislative or fiscal body of the unit, whichever applies, "regardless of any other law" **(which one??). While the legislative body and fiscal body of a municipality are the same entity, that is not true for 89 of the 92 counties.** Removes language prohibiting the exercise of eminent domain by the commission in an economic development area (because of the repeal of IC 36-7-14-20).

Amends IC 36-7-14-46 (housing TIF) to remove language prohibiting the exercise of eminent domain by the commission in an economic development area (because of the repeal of IC 36-7-14-20).

Amends IC 36-7-14-48 (housing TIF) to provide that, if the amount of excess assessed value determined by the commission is expected to generate more than 200% of the amount of TIF necessary to make, when due, principal and interest payments on bonds, plus the amount necessary for other purposes described in subdivision (3) **(I think it means the TIF laundry list in (b)(3))**, the commission must submits its determination of excess assessed value that commission proposes to allocated to the respective taxing units. The legislative body may approve the determination or modify the amount so determined for allocation to the respective taxing units.

Amends IC 36-7-14.5-7 to provide that: (i) a redevelopment authority is subject to the same laws, rules, and ordinances of a general nature that apply to all other commissions or departments of the unit (**Our concern with this language is that the statutes governing sanitary districts are different than those governing redevelopment authorities, etc., This language adds needless confusion and may call into question the validity of redevelopment authority actions)**; and (ii) Expressly provides that the redevelopment authority is subject to

- audit by the state board of accounts; and (should probably be "examination") and
- public access laws (open door and public records).

Amends IC 36-7-14.5-9 to require the secretary-treasurer of the redevelopment authority to submit annual reports to the fiscal body of the unit.

Amends IC 36-7-14.5-11 to provide that the authority or an entity with power delegated to it by the authority may not own or hold or lease a single family dwelling or condominium unit

Amends IC 36-7-14.5-13 to require the commission to obtain prior approval of the fiscal body before it may sell or lease a local public improvement to the redevelopment authority.

Amends IC 36-7-14.5-14 to require the commission to obtain the prior approval of the fiscal body of the unit before it may enter into a lease with the authority.

Amends IC 36-7-14.5-18 to require the commission to obtain the prior approval of the fiscal body of the unit before it may sell property to the authority.

Amends IC 36-7-14.5-19 to require the prior approval of the legislative body of the unit under IC 36-7-14-25.1 (should be 25.2) before the authority may issue bonds for the construction of local public improvements.

Amends IC 36-7-14.5-21 to require the prior approval of the fiscal body of the unit of before the authority may enter into a trust indenture.

Amends IC 36-7-14.5-22 to require the prior approval of the legislative body of the unit under IC 36-7-14-25.1 (should be 25.2) before the authority may issue bonds to purchase leased property.

Adds IC 36-7-15.1-3.5 (Indianapolis) to provide that the controller is the fiscal officer of the commission, and that the controller may obtain financial services on a contractual basis. **(This is probably to ratify/bless the use of the Indianapolis Bond Bank).**

Adds IC 36-7-15.1-4.2 to provide that the commission and the department are subject to

- audit by the state board of accounts; and (should probably be "examination")
- public works laws
- public access laws (open door and public records).

Adds IC 36-7-15.1-4.3 to provide that the commission or department or an entity with power delegated to it by the commission or department may not own or hold or lease a single family dwelling or condominium unit.

Amends IC 36-7-15.1-7 to limit financial assistance that may be provided to enable individuals and families to purchase residential units to units in a multiple unit residential structure.

Amends IC 36-7-15.1-12 to require approval by the legislative body of any agreement to make payments for the purchase of property over a term greater than 5 years.

Amends IC 36-7-15.1-26 to provide that: (i) a declaratory resolution or amendment that establishes an allocation provision must include a specific finding of fact, supported by evidence, that the adoption of the allocation provision will result in new property taxes in the area that would not have been generated but for the adoption of the allocation provision; (ii) For allocation areas established before July 1, 1995 (EXCEPT THE DOWNTOWN CONSOLIDATED AREA as it existed at the end of 2013), the expiration date of any allocation provisions for the allocation area is June 30, 2025, or the last date of any obligations that are outstanding on July 14, 2015, whichever is later (leaves unchanged the expiration dates of allocation areas established **after** July 1, 1995.) (ii) if the amount of excess assessed value determined by the commission is expected to generate more than 200% of the amount of TIF necessary to make, when due, principal and interest payments on bonds, plus the amount necessary for other purposes described in subdivision (3) and subsection (g) **(I think it means the TIF laundry list)**, the commission must submits its determination of excess assessed value that commission proposes to allocate to the respective taxing units to the city-county council. The council may approve the determination or modify the amount so determined for allocation to the respective taxing units.

Amends IC 36-7-15.3-7 to provide that the authority or an entity with power delegated to it by the authority may not own or hold or lease a single family dwelling or condominium unit.

Adds IC 36-7-15.3-8.5 to provide that the authority is subject to

- audit by the state board of accounts; and (should probably be "examination")
- public works laws
- public access laws (open door and public records).

Enacts a NONCODE provision directing the commission on state tax and financing policy to study redevelopment commission, redevelopment authorities, and departments. Requires the DLGF and the State Board of Accounts prepare a report on redevelopment that covers at least the following:

- The activities of each redevelopment commission, authority, and department throughout Indiana, including projects proposed and projects completed.
- The budgets for 2009 through 2013 for each redevelopment commission, authority, and department, including a summary of these budgets.
- The audit findings for 2009 through 2013 for each redevelopment commission, authority, and department audited by the state board of accounts, including a summary of these audits.
- The actual increase in assessed values in redevelopment areas compared to the estimated increases set forth in the redevelopment plan.
- Suggested changes in the law with regard to redevelopment commissions, authorities, and departments.
- Before August 1, 2014, the department of local government finance shall deliver the report concerning redevelopment commissions, authorities, and departments to the executive director of the legislative services agency in an electronic format under IC 5-14-6 for distribution to each member of the commission on state tax and financing policy. The department of local government finance and the state board of accounts shall be available to present the report and respond to questions at a meeting specified by the commission.

Enacts a NONCODE provision to grandfather obligations, bond resolutions adopted, leases, for which a public hearing was held prior to July 1, 2014.

Ice Miller LLP
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