Office of the State Auditor

Date: April 30, 2020

To: Rep. Andrew Carlson, Chairperson
House Property Tax and Local Division

From: Jason Nord, Director
OSA Tax Increment Financing Division

RE: HF 3876 and the A2 Amendment

The Office of the State Auditor (OSA) is the state office that oversees the use of tax increment financing (TIF) by political subdivisions. Below, for your consideration, are our observations regarding HF 3876 and the proposed A2 amendment.

Extension of the Five-Year Rule

From an administration standpoint, the only issue we see with this proposal is that it then would require a corresponding change to the six-year rule (Minn. Stat. § 469.1763, subd. 4) for extended districts (so that for those districts the "six-year rule" becomes an "eleven-year rule").

A temporary extension for recently-created redevelopment districts (as was done in 2010 for the recession) may be something to consider. For purposes of answering future questions, it would be helpful to understand the intent behind a permanent change for only non-metro districts.

Temporary Use of Increment

Under current law, a municipality already has the option to return unneeded increments and receive a share back for unrestricted, general use. Returned increments are redistributed by the county auditor to the city/town, county, and school district in proportion to their tax rates. This provision would effectively allow cities to retain funds that counties and school districts otherwise would be entitled to. Additionally, members may also wish to consider the possible perception that municipalities that were not diligent in promptly returning unneeded increment are being rewarded relative to those municipalities that were diligent, and the future incentive this creates to retain unneeded increments.

One additional area in which clarification would be useful relates to the relationship between existing interfund loan obligations and the authorized transfers proposed in the legislation. Under current law, a municipality may loan itself funds to cover TIF-related expenses that may be repaid from increments, with interest, should sufficient increment be available after paying other bonds and obligations. Would the proposal allow the transfer of increment to the general fund without first paying existing interfund loans, which, if unpaid, will continue to accrue interest?

We also have a number of recommendations that would be important to allow for proper administration and oversight:

(1) Please add a requirement to send copies of spending plans to the OSA so that we can identify uses of this provision.
(2) Please consider requiring a corresponding amendment to existing TIF plans to update the estimated uses of increment, thereby avoiding confusion as to how such transfers affect the existing plan.
(3) Please consider applying the expiration of this authority to both the transfer and use of the increments rather than just the transfer.
(4) Please clarify that any transfers are to be regarded as “out-district” uses for purposes of pooling limitations.
(5) Please clarify that any improperly received or retained increments are not eligible for transfer under this authority.

We would be happy to answer any questions related to these administrative issues.