**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1521 CS Community Redevelopment Agencies
**SPONSOR(S):** Sorensen
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2060

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---|---|---|
| 1) Finance & Tax Committee | 5 Y, 3 N, w/CS | Monroe | Diez-Arguelles |
| 2) Local Government Council | 8 Y, 0 N | Camechis | Hamby |
| 3) Fiscal Council | | Monroe | Kelly |
| 4) | | | |
| 5) | | | |

**SUMMARY ANALYSIS**

Under this bill, the tax increment financing (TIF) received by Community Redevelopment Agencies (CRAs) which were not created under a delegation of authority from a home rule county and which are not operating pursuant to an interlocal agreement would be limited beginning July 1, 2008, if:

- The CRA has existed for 20 years,
- The amount of revenue a taxing authority must deposit in the CRA trust fund equals or exceeds the amount available to the taxing authority for its own purposes (exclusive of debt service levies), or
- The CRA has existed for at least five years, and the electorate indicates in a countywide referendum that the county contribution to the CRA should not continue to increase.

If one of these conditions exist, the contribution to the CRA by a local taxing authority is limited to the amount contributed by the taxing authority in the prior fiscal year or an amount specified in an interlocal agreement.

Also, the bill provides that counties without home rule charters will not be required to contribute TIF to CRAs created after July 1, 2005, unless an interlocal agreement exists between the county and the municipality creating the CRA. Similarly, a CRA created prior to July 1, 2005, will not be able to expand its boundaries, modify a redevelopment plan, or modify existing debt service without an interlocal agreement with the county in which it is located, if the county was not a home rule charter county when the CRA was created.

This bill has no impact on state revenues and will take effect July 1, 2005.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

**Present Situation**

Community Redevelopment Agencies (CRA)

The Community Redevelopment Act of 1969, Ch. 163, Part II, F.S. (Act), was established with the intent to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state." The Act authorizes each local government to establish one Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a "finding or necessity" and a further finding of a "need for a CRA to carry out community redevelopment." During the last two decades, municipalities, and to a lesser extent counties, have increasingly relied upon CRAs as a mechanism for community redevelopment. CRAs are funded primarily through tax increment financing (TIF) which diverts some ad valorem tax revenues from the levying authority (a county or municipality) to a redevelopment trust fund for the CRA to use for its redevelopment projects and related activities.

Current law, with some exceptions, does not allow counties to participate in the operations of CRAs established by municipalities. However, counties are required to help fund CRAs, and at times may fund them at a higher level than the municipalities which created and control them. This and other issues have resulted in a rise in the number of CRA-related conflicts between municipal and county governments.

Financing of CRAs

Pursuant to s. 163.387, F.S., CRAs are funded primarily through tax increment financing, commonly known as "TIF", whereby ad valorem revenues in excess of those collected in the base year the redevelopment area was created are remitted by local taxing authorities such as counties, municipalities, and special districts to a redevelopment trust fund used by a CRA to fund redevelopment projects and related activities. CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years.

Section 163.387(2)(c), F.S., exempts the following public bodies and taxing authorities from the requirement to contribute TIF payments:

- A special district that levies ad valorem taxes on taxable real property in more than one county;
- A special district whose sole available source of revenue is ad valorem taxes authorized at the time an ordinance is adopted providing for CRA funding;
- A library district, except a library district in a jurisdiction where the CRA validated bonds as of April 30, 1984;
- A neighborhood improvement district created under the Safe Neighborhoods Act;
- A metropolitan transportation authority; and
- A water management district created under section 373.069, Florida Statutes.

- In accordance with s. 163.087(2)(d), F.S., the local governing body that creates a CRA may, in its sole discretion or in response to a request from the special district, exempt a special district that levies ad valorem taxes within the CRA.

The division of authority between a county and municipality regarding the creation or expansion of a municipal CRA depends upon whether the county is a non-charter or charter county, or whether a CRA was created *prior* to adoption of a county charter. The division of authority may be summarized as follows:

| | **Authority over creation, expansion, or modification of a CRA** |
|---|---|
| Charter County | Charter counties possess sole authority to create CRAs within the county, but may delegate authority to a municipality via interlocal agreement. |
| Non-Charter County | Non-charter counties do not have authority over the creation, expansion, or modification of municipal CRAs within the county. Therefore, a municipality may create a CRA and operate the CRA, requiring the long-term contribution of TIF payments from the county, even if the county objects or has other county funding issues to address. |
| A CRA created in a charter county *prior* to adoption of the county charter | The charter county does not have authority over the operations of the CRA, including modification of the redevelopment plan or expansion of CRA boundaries. |

Counties are required to contribute TIF payments to CRAs and, in some areas, ultimately contribute more than the municipalities creating the CRAs. This is due to the fact that millage rates levied by counties are generally higher than millage rates levied by municipalities. This, among other issues, has increased the number of CRA-related conflicts between county and municipal governments.

Legislative Committee on Intergovernmental Relations (LCIR) Study

During the 2003-2004 interim, the LCIR conducted a study of economic revitalization initiatives if distressed urban areas. During the study, local governments in Florida cited CRAs as the most commonly used economic development and revitalization program in Florida. The LCIR continued reviewing the issue of urban revitalization with an emphasis on CRAs. At the conclusion of the review, LCIR issued a comprehensive report in January 2005 entitled *Local Government Concerns Regarding Community Redevelopment Agencies in Florida* (Report).

The Report included the following "Findings" regarding the current applications of CRAs and "Proposals" for legislative action:

LCIR Findings

- County and municipal governments agree that CRAs are useful mechanisms for addressing slum and blight.
- Currently, there are 144 CRA districts of which 125 districts were created by 114 municipal governments and 19 districts were created by 14 county governments.
- 32 counties contain only CRA districts created by municipalities; 10 are charter counties and 22 are non-charter counties of which 13 are "small" counties with populations less than 75,000.
- 12 counties contain county and municipal CRA districts and two counties contain only county created CRA districts.
- Representatives from municipal government and CRA officials prefer no change to existing CRA statutes, stating that current law has resulted in improvements to areas previously designated as slum or blighted.

- Representatives from municipal government and CRA officials also submit that any problems can best be addressed locally through interlocal agreements rather than statutory changes.
- Representatives of county government advocate changes to existing CRA statutes, stating current law is responsible for creating an imbalance in power between municipal and county governments.
- Problems cited by county government representatives include, among others: county government has insufficient input into operations and expansion of existing CRA districts and creation of new districts; and non-charter counties have no voice whatsoever in CRA activities within their jurisdiction.
- Current law does not require or provide for interlocal agreements between county and municipal governments.
- According to 2003 millage rates for county and municipal governments, 78 municipalities with CRAs have lower millage rates than their host county and 36 municipalities with CRAs have higher millage rates than their host county.
- LCIR staff estimates that, based on 2003 millage rates, county government contributes $81,674 to municipal CRAs per each $100,000 increase in the CRA district's taxable value (assumed increase), compared to municipal government contribution of $66,905 to municipal CRAs per each $100,000 increase in the CRA district's taxable value.
- A recent evaluation of three CRAs in Florida, sponsored by the Florida Redevelopment Association, found that TIF payments impose a greater financial burden on municipalities than on counties when measured as a percent of taxable property values and as a percent of overall operating revenues. In addition, some municipalities contribute larger TIF payments than do their host counties.

LCIR Proposals

- Amend current law to require interlocal agreements between county and municipal governments regarding the formation, expansion, financing, reporting, and duration of CRA districts within the county. To ensure that local governments negotiate in a timely fashion, require that the agreement be approved by a majority of members of the governing body of the county and municipal government within 90 days following the request by either local government to enter into an interlocal agreement. Failure to reach agreement shall be settled through the governmental dispute process provided in Chapter 164, Florida Statutes.
- Amend current law to expand upon current CRA reporting requirements to include status reports on redevelopment projects and related activities contained in redevelopment plans and other information as specified in interlocal agreements.
- Amend current law to authorize funding alternatives to TIF. Such funding alternatives include, but are not limited to, in-kind contributions, providing public infrastructure, business incentives, and waivers of impact fees and other costs related to redevelopment, among others, and shall be specified in interlocal agreements between county, municipal and other affected local governments. Costs for funding alternatives would be a direct credit towards a local government's future TIF obligations. Funding alternatives shall ensure adequate and timely distribution of payments necessary for the CRA to function in an efficient and effective fashion and meet any outstanding bond obligations.

## Effect of Proposed Changes

Under this bill, the TIF received by CRAs which were *not* created under a delegation of authority from a home rule county and which are not operating pursuant to an interlocal agreement would be limited under certain circumstances. Specifically, beginning July 1, 2008, if:

- The CRA has existed for 20 years,
- The amount of revenue a taxing authority must deposit in the CRA trust fund equals or exceeds the amount available to the taxing authority for its own purposes (exclusive of debt service levies), or

- The CRA has existed for at least five years and the electorate indicates on a countywide referendum that the county contribution to the CRA should not continue to increase.

then, the contribution of the local government taxing authority is limited to the amount contributed by the county in the prior fiscal year or an amount specified in an interlocal agreement.

Also, the bill provides that counties without home rule charters will not be required to contribute TIF to CRAs created after July 1, 2005 unless an interlocal agreement exists between the county and the Municipality creating the CRA. Similarly, a CRA created prior to July 1, 2005, will not be able to expand its boundaries, modify a redevelopment plan, or modify existing debt service without an interlocal agreement with the county in which it is located, if the county was not a home rule charter county when the CRA was created.

C. SECTION DIRECTORY:

Section 1: Amends section 163.387, F.S., to include limitations on the amounts that a county is required to contribute to CRA trust funds under TIF.

Section 2: Amends section 163.415, F.S., to specify that new CRAs may not be created in a county without a home rule charter absent an interlocal agreement; a CRA created prior to July 1, 2005, will not be able to expand its boundaries, modify a redevelopment plan, or modify existing debt service without an interlocal agreement with the county in which it is located if the county was not a home rule charter county when the CRA was created.

Section 3: Provides an effective date of July 1, 2005.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: This bill would result in some local government revenues which would have gone to CRAs remaining with the local government authority that levied the revenue.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue: On line 100 of the bill, the sentence beginning with the words "For future" should be moved down one line so that it begins a "flush left" paragraph.

The Florida Association of Counties offered the following comments regarding this committee substitute:

> HB 1521 creates incentives for municipalities that have created CRA's to negotiate interlocal agreements that allow for counties to determine the appropriate investment of county public tax dollars to community redevelopment. Current law allow for the municipalities to extract county tax dollars with no county input – essentially to "Pay with no say" – for periods as long as 60 years. The three "triggers" or events in the bill were meant to provide incentives for the cities to negotiate interlocal agreements where no such incentive exists today.
>
> It is not the intent to create uncertainty in the bond markets. In order to protect bonds, the bill mandates that a county must continue payments at the July 2008 level throughout the life of the CRA. FAC understands that any existing bonds must be protected and expect that any interlocal agreement would recognize and fully fund any existing debt. FAC would support an amendment that would clarify that any interlocal agreement would have to protect debt service requirements in existence prior to enactment of the legislation.
>
> FAC believes the bill addresses a fundamental imbalance in the existing law for CRA's between the cities that create the CRA and the non-charter county that must contribute to the CRA. Current law does not have the proper checks and balances to protect the county taxpayer. Current law provides incentives for cities to make CRA's as large as possible and to have as long a life as possible in non-charter counties. As non-charter counties, in the vast majority of instances, have higher millage rates than municipalities, cities have incentives to more than double the amount of public funds to be expended within parts of their city by capturing the county property tax levy through the creation of a CRA.
>
> FAC believes this bill works to fulfill a commitment made by the Florida League of Cities to address Tax Increment Financing following the passage of HB 1341 in the 2002 legislative session and to address recommendation of the Florida City County Managers Association that TIF be addressed in the 2004 legislative session. It has been asserted that this bill works to undo agreements reached in the 2002. FAC believes that the key commitment that has been broken is the failure of the FLC and the Florida Redevelopment Association to address TIF in any meaningful fashion that allows for taxpayers in the unincorporated areas in Florida's non-charter counties to have representation in decisions that result in their increased taxation.
>
> Finally, this issue cannot be worked out locally under the current statutory structure. The statutes fail to provide the necessary authority in non-charter counties to allow for a meeting of minds to be reached among parties. HB 1521 works to correct that going forward by vesting authority with respect to new or

expanded CRA's in non-charter counties. The bill also attempts to allow local governments to negotiate appropriate agreements with respect to those CRA's that have been created to date with no input from counties required to pay. The bill does not prescribe a state solution; rather it vests each party with the necessary authority to negotiate an appropriate local solution.

The Florida League of Cities and the Florida Redevelopment Association offered the following comments regarding this committee substitute:

The Florida League City and the Florida Redevelopment Association believes HB 1521 would significantly and adversely impact the use of CRAs to address redevelopment concerns.

The overall effect of this legislation if enacted will be to shut down CRAs throughout the state. They will not be able to issue bonds or notes as the bond underwriters and banks will be nervous that the "triggers" will occur while the debt is outstanding and the county contribution will likely be lost or significantly reduced. Issuing TIF backed debt is difficult enough because of all the economic variables. The insertion of this "political" legislation into the mix will cause lenders to stay away. Without money CRAs can't do their jobs.

The various triggers are arbitrary. In fact, many CRAs have already reached the stage that one of the triggers would apply. Therefore, HB 1521— even with the July 1, 2008 "grandfather" or delay would change the rules and conditions under which a CRA was created and a redevelopment plan adopted.

The three triggers also offer a simplistic and "one-size fits all" solution to the issue of TIF funding. Every CRA is independently operating and is uniquely qualified to address the specific problems of slum and blight that were the impetus for their creation.

The FLC and the FRA also believe that HB 1521 reneges on the deal struck in 2002 between the FLC and the FAC. Specifically, the provision in HB 1521 that would apply the new law to CRAs in counties that were created before the county chartered ignores the delicate balance of interests that was necessary pass the 2002 legislation. Furthermore, HB 1521 grants authority to those counties in which the CRA predates the charter, that even charter counties do not have. These "super powers" include the authority to approve modifications to the redevelopment plan. Even minor or technical changes to the redevelopment plan would require approval of the counties with these "super powers".

Additionally, the FLC, a strong defender of home rule authority, is committed to allowing disputes between local government entities to be resolved at the local level, without interference from the state. Furthermore, the FLC maintains that Chapter 163 Part I, which authorizes the use of interlocal agreements, and Chapter 164 F.S. (Florida Governmental Conflict Resolution Act) currently provide a comprehensive and satisfactory process for resolving disputes between local governmental entities.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 7, 2005, the Committee on Finance and Tax adopted a strike everything amendment to the bill. The amendment made numerous clarifying changes to the language of the bill and included two substantive provisions. First, under this bill as amended, a county's required TIF contribution to an existing CRA will not be affected by this bill until July 1, 2008. Second, the county may not hold a referendum for the purpose of limiting the TIF of a CRA until the CRA has existed for at least five years.