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BILL ANALYSIS



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Senate Bill 1240 (as enrolled)
Sponsor: Senator Tom George
Senate Committee: Commerce and Labor
House Committee: Commerce

PUBLIC ACT 196 of 2004

Date Completed: 10-7-04

RATIONALE

The downtown development authority (DDA) Act was enacted in 1985 to promote economic growth in downtown areas across Michigan. The Act permits a city, village, or township, by ordinance, to create an authority and establish a downtown district, in order to "capture" the incremental growth in tax revenue on property within the district, for use in financing a variety of public improvements in that area. The Act also authorizes the board of a DDA to engage in certain activities, including planning and proposing the construction, renovation, repair, rehabilitation, or preservation of a "public facility" (e.g., a street, pedestrian mall, park, parking facility, recreational facility, waterway, bridge, or building), and implementing a plan of development in the district. Some people believe that promoting a DDA and the retail businesses in its downtown district through marketing initiatives, and providing broadband or wireless technology within the downtown district, also may foster economic growth in local communities.

In an unrelated DDA matter, an economic development measure used in Battle Creek to entice the Kellogg Corporation to locate a division headquarters there evidently would have resulted in a revenue shortfall for the city's DDA. Although the Act permits a DDA to restructure its debt by issuing a "qualified refunding obligation" under certain circumstances, the Battle Creek DDA did not meet the established criteria, in part because of a refunding obligation issued in 1997. It was suggested that the Battle Creek DDA be allowed to issue an obligation to refund the 1997 qualified refunding

obligation, in order to avoid the revenue shortfall.

CONTENT

The bill amended the downtown development authority Act to add both of the following to the list of authorized DDA board activities:

- Creating, operating, and funding marketing initiatives that benefit only retail and general marketing of the downtown district.
- Contracting for broadband service and wireless technology service in the downtown district.

In addition, the Act provides that a "qualified refunding obligation" is an obligation issued or incurred by a DDA, or a municipality on behalf of a DDA, to refund an obligation if the refunding obligation meets both of the following requirements:

- The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the present value of the principal and interest to be paid on the obligation being refunded.
- The net present value of the sum of the tax increment revenues from State and local school taxes and distributions from the State to repay the refunding obligation will not be greater than the net present value of the sum of those tax increment revenues and distributions to repay the obligation being refunded.

(This enables a DDA to refund obligations, such as bonds and notes, for which school tax revenue may be captured, without losing that revenue as a result of the refunding.)

Under the bill, a qualified refunding obligation also may be an obligation issued to refund a qualified refunding obligation issued in November 1997 and any subsequent refunding of that obligation issued before January 1, 2010.

MCL 125.1651 & 125.1657

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The DDA Act was implemented almost 20 years ago to promote economic development in the downtown areas of Michigan's cities, villages, and townships. While DDAs have had a degree of success in funding various projects and activities in downtowns, they were not authorized to promote their downtown districts through marketing efforts. By permitting DDA boards to create, operate, and fund marketing initiatives to benefit downtown districts and retail operations within those districts, the bill furthers the Act's purpose of empowering authorities to promote economic growth in Michigan communities. Under the bill, DDAs may promote events, such as downtown festivals or special sales, as well as attributes of their downtown districts, such as parks, plazas, or convenient parking.

Supporting Argument

There have been considerable advancements in communication technology since the enactment of the DDA Act. In recent years, the availability of broadband service or wireless communication technology has been widely touted both for the value of the technology to business operators and for its attractiveness and convenience to consumers. Allowing a DDA board to contract for the provision of broadband service and wireless technology can enhance the success of a downtown district, by encouraging businesses that rely on those services to locate downtown, and attracting individuals to stores and shops, such as

cyber-cafes, that make this technology available to their customers.

Supporting Argument

Evidently, as a result of the economic incentive package offered to the Kellogg Corporation, the Battle Creek DDA would have experienced a revenue shortfall for two years unless it restructured its debt by issuing a qualified refunding obligation. Under the Act, however, the net present value of the principal and interest to be paid on a refunding obligation must be less than the net present value of the principal and interest to be paid on the obligation being refunded. Since the Battle Creek DDA had issued a qualified refunding obligation in 1997, issuing another such obligation at this time would not meet that requirement.

The bill accommodates the Battle Creek DDA by allowing it to issue a qualified refunding obligation to refund another issued in 1997 and any subsequent refunding of that obligation. This provision is narrowly drawn and is connected to job-creating economic development efforts, and the City of Battle Creek reportedly will back the refunding bonds with its full faith and credit.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill will have an unknown, and likely minimal, fiscal impact on affected local units of government and little to no fiscal impact on State government. It is unknown how many DDAs will pursue marketing initiatives or contracts for broadband or wireless technology service as allowed under the bill or how successful such initiatives or contracts will be in benefiting downtown districts. To the extent that such initiatives or contracts are successful, the increase in allowed expenses will be partially or completely offset by higher tax revenue.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.