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BILL ANALYSIS

Senate Fiscal Agency

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House Bill 5083 (Substitute H-3 as reported without amendment)

Sponsor: Representative Michael E. Nye

House Committee: Economic Development and Energy

Senate Committee: Economic Development

Date Completed: 2-1-90

RATIONALE

Public Act 425 of 1984 allows two or more local units of government (cities, villages, and townships) to enter into contracts to transfer property for the purpose of an economic development project. "Economic development project" is defined as land and existing or planned improvements suitable for use by an industrial or commercial enterprise or housing development incidental to an industrial or commercial enterprise, including necessary buildings, improvements, structures, machinery, furnishings, and equipment.

Under the provisions of the Act, the City of Hillsdale entered into an agreement with a township to supply water and sewer service to a business and commercial area that was north of the city's limits and part of an addition to the city's industrial park. Consistent with Public Act 425, the city also was able to protect its water well field (recharged primarily from rainfall and surface water) by enforcing city ordinances designed to protect surface and groundwater resources. When the developers of a condominium complex south of Hillsdale requested city water and sewer services, however, the city attorneys reportedly advised Hillsdale that it could provide these services only if it annexed the area, since Public Act 425 does not allow residential development apart from an industrial or commercial enterprise to qualify as an "economic development project". The township refused annexation. Although the township could develop its own water and sewage system, it

would be a duplication of the city's facilities, which are not yet at capacity. The city, concerned about protecting the ground and surface water sources of its water supply and willing to extend its water and sewage services, has requested permission to supply those services to residential areas as part of an economic development project.

CONTENT

The bill would amend Public Act 425 of 1984 to do the following:

- Expand the definition of "economic development project" to include projects for the protection of the environment, including ground water and surface water.
- Delete provisions in the definition that allow improvements for housing developments to qualify as economic development projects only if the housing developments are incidental to an industrial or commercial enterprise.
- Provide a formal process for establishing when a conditional transfer of property would take effect.

Specifically, a conditional transfer of property would take place when the clerk of the local unit receiving the transferred property filed a duplicate original of the transfer contract with the Secretary of State and the county clerk of the county in which the local unit was located.

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The county clerk and Secretary of State would be required to enter contracts in a book kept for that purpose, and the contract or a copy certified by the county clerk or the Secretary of State would be prima facie evidence of the conditional transfer.

MCL 124.21 et al.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

Currently, housing developments do not qualify as economic development projects under Public Act 425 of 1984 unless they can be shown to be incidental to a specific industrial or commercial project. This requirement is not only impractical but also unnecessarily restrictive. Housing developments often are necessary because of a general growth in the industrial or commercial community, and not because of any one specific enterprise. The bill would help promote economic growth by recognizing that a housing development can be a legitimate economic development project regardless of whether it is associated with an industrial or commercial enterprise.

Supporting Argument

Public Act 425 of 1984 currently does not recognize environmental protection as an activity qualifying under the definition of "economic development project". Yet commercial, industrial, and housing developments all present the possibility of environmental degradation, including threats to the preservation of limited water resources. The bill would recognize the importance of protecting the environment, even while encouraging economic development, by allowing local units of government to work together to protect and preserve the environment.

Supporting Argument

Since mutually agreeable conditional transfers of property between local units of government under Public Act 425 do not have to be filed with any State or local agency, it is difficult to track such contracts. This lack of any readily available public access to records of such

contracts can cause a number of problems for Federal, State, and local governments. For example, the return of road money (so-called "Act 51 monies") to local units of government from transportation revenues depends on whether certain information has been filed with the Secretary of State. Even liquor licenses, which vary by location, depend on proper filing, since what is filed determines the jurisdiction in which the licensee is located. Finally, these contracts are public contracts between local units of government and should be publicly available. A uniform way of recording them is needed, particularly in view of the fact that they can last for up to 50 years. The bill would remedy these problems by establishing certain filing requirements modeled on those presently in place in the home rule cities Act (Public Act 279 of 1909).

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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.