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BILL ANALYSIS

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Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 139 (as enrolled)
 Senate Bill 140 (as enrolled)
 Sponsor: Senator John D. Cherry, Jr.
 Committee: Local Government and Veterans
 Date Completed: 6-26-87

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RATIONALE

Township planning commissions currently are required under Public Act 168 of 1959 and the Township Rural Zoning Act to develop and adopt a basic plan as a guide for developing unincorporated portions of a township. Many townships have gone a step further in their planning, and have created more comprehensive plans for portions of their townships that are experiencing rapid growth. One such township that has taken this step is Davison Township, in Genesee County, which had developed a detailed plan for the area along State trunkline M-15 between the city of Davison and the I-69 interstate highway. The township had developed a detailed plan for that area in 1975, which township officials believed they had the authority to do under the two township planning Acts. The detailed plan was being followed by commercial developers until 1983 when a dispute with a fast food developer led to a Federal lawsuit against Davison Township. In holding against the township, the court noted that the intent of the township to offer guidelines for development was good, but the township did not have the power under the planning Acts to develop a plan for an area less than the size of the entire township. Reportedly, many other townships across the State have interpreted the planning Acts as permitting them to develop detailed plans for portions of their townships, and some people argue that the Acts should be amended to allow townships to do so.

CONTENT

Senate Bill 139 would amend Public Act 168 of 1959, which provides for township planning, to:

- Permit a planning commission to adopt a plan, under certain circumstances, for a geographic area less than the entire unincorporated area of the township.
- Require that the planning commission hold a public hearing on the plan.
- Require that a site plan, that is required under the Township Rural Zoning Act for property located in the plan area, comply with the plan adopted under this provision.

Senate Bill 140 would amend the Township Rural Zoning Act to require that approval of a site plan be based on "other township documents" as well as "other applicable ordinances and state and federal statutes" in addition to requirements contained in the zoning ordinance.

The bills are tie-barred.

Senate Bill 139

Currently, a planning commission is required to make and adopt a basic plan as a guide for developing unincorporated portions of a township. (Basic plan means a "master plan, general development plan, guide plan, or the plan referred to in [the Township Rural Zoning Act],

being the basis on which the zoning plan is developed".) In addition to this basic plan, the bill would allow a planning commission, by a majority vote of the members, to adopt a plan for a geographic area less than the entire unincorporated area of the township if, because of the area's "unique physical characteristics", more intensive planning were needed for purposes set forth in the Act (e.g., to promote public health, safety, and welfare; to lessen congestion on roads and streets; etc. MCL 125.322). Before a plan was adopted, the planning commission would be required to hold at least one public hearing on the plan after giving notice as provided in the Act. After a plan was adopted, a site plan for property located in the plan area, that is required to be submitted under the Township Rural Zoning Act, would have to comply with the plan adopted under the bill's provisions. The bill specifies that its purpose would be "to clarify the authority of a planning commission, which is implied from the language of this act, but which is not specifically set forth in this act".

MCL 125.326

Senate Bill 140

Senate Bill 140 would amend the Township Rural Zoning Act, under which a township may require that a site plan be submitted and approved before a land use or activity regulated by a zoning ordinance is authorized. Under the bill, decisions for rejecting, approving, or conditionally approving a site plan, which now are based on requirements and standards contained in the zoning ordinance, also would have to be based on "other township documents" and on "other applicable ordinances, and state and federal statutes". The bill specifies that its purpose would be "to clarify the authority of the township body, board, or official charged with reviewing site plans and granting approval of site plans, which is implied from the language of this act, but which is not specifically set forth in this act".

MCL 125.286e

FISCAL IMPACT

Senate Bill 139 would have no fiscal impact on State government, and an indeterminate impact on local units of government. The fiscal effects on a given township would depend on the number of times that the township's planning commission chose to exercise its new authority to adopt plans for a geographic area less than the entire unincorporated area of the township.

Senate Bill 140 would have no fiscal impact on State or local government.

S.B. 139 & 140 (6-26-87)

ARGUMENTS

Supporting Argument

Public Act 168 and the Township Rural Zoning Act note that the purposes for townships to develop plans include: promoting public health, safety, and general welfare; encouraging the use of resources in accordance with their character; avoiding overcrowding; lessening congestion on public roads and streets; and providing for a system of transportation, sewage disposal, and water (MCL 125.322 and 125.273). In practice, township planning boards have produced extensive plans for portions of their townships in an effort to fulfill the spirit of the Acts and to promote sound and orderly development. Davison Township, for example, proposed in the detailed plan that a "collector road" be constructed to avoid the possibility of 26 driveways exiting on to State road M-15 and creating a traffic hazard. Disagreement with this proposal by a fast food developer resulted in a lawsuit against the township. Senate Bills 139 and 140 clearly would give townships the authority to develop these detailed plans, which townships assumed they already could do under State law.

Supporting Argument

Metropolitan areas around the State have experienced increased growth in commercial and residential development. As particular areas develop more extensively than others, some townships may want to plan that type of growth carefully. The bills would allow townships to develop more extensive plans to serve as guidelines for this intense growth.

Opposing Argument

From time to time, local governments have overstepped their bounds. Allowing townships to develop detailed plans for portions of their localities could provide a method for townships to draw plans purposely to exclude businesses and developments they consider undesirable.

Response: The plans allowed under the bill would not usurp other local ordinances and a developer's rights to seek a variance. If a business wanted to locate in an area and it met zoning requirements, a township would have difficulty in denying the developer.

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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.