House
Legislative
Analysis
Section

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

REVISE BROWNFIELD REDEVELOPMENT ACT

House Bill 4400 (Substitute H-1)
Sponsor: Rep. Randy Richardville
Committee: Economic Development

Complete to 2-29-00

A SUMMARY OF HOUSE BILL 4400 (SUBSTITUTE H-1)

Current law allows local governments to create "Brownfield" Redevelopment Zones, in which tax increment financing can be used to help pay for cleaning up contaminated urban commercial or industrial property for reuse. The bill would amend the Brownfields Redevelopment Financing Act (MCL 125.2652 et al.) to make the following changes:

• The bill would expand the definition of "eligible property" (for which financing is available to assist in cleanup and redevelopment). Currently, "eligible property" is limited to property that is contaminated by hazardous substances. Under the bill, the definition would be expanded to include commercial, industrial, or residential property in a "qualified local governmental unit" (certain urban areas as proposed in House Bill 5444) that is either contaminated, blighted, or functionally obsolete; or, property that is not in a qualified local governmental unit but that is contaminated. Key terms are defined as follows in the legislation:

-- Under House Bill 5444, which would create the Obsolete Property Rehabilitation Act, a "qualified local governmental unit" is defined to mean a city with a median family income of 150 percent or less of the statewide median family income as of the 1990 census that a) was the central city of a metropolitan area; b) was contiguous to a city with a population of 500,000 or more; c) had a population of 10,000 or more and was located outside of an urbanized area; or d) contained an eligible distressed area under the Michigan State Housing Development Authority Act.

-- "Blighted" property would include property that had been declared a public nuisance under a local housing, building, plumbing, fire, or other code; that was an attractive nuisance to children because of physical condition, use, or occupancy; was a fire hazard or was otherwise dangerous to persons or property; had had utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property was unfit to use; or was tax reverted property owned by a local government or the state.

--"Functionally obsolete" property would mean property that cannot be used for its intended use because of a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or its relationship with other items comprising a larger property.

• The bill would expand the definition of "eligible activities" (generally, activities that are eligible for funding from the various financing mechanisms available under this act and related acts, including state and local loans, tax increment financing, and single business tax credits). At present,

"eligible activities" are limited to environmental assessment and cleanup activities. Under the bill, the definition would include infrastructure improvements that directly benefit eligible property, demolition of structures that is not included in environmental response activities, lead or asbestos abatement, site preparation, and reasonable administrative and operating activities of a brownfield redevelopment authority or the municipality in connection with activities authorized under the act.

• The bill specifies that if a brownfield plan would include the capture of school operating taxes, and if the revenues will be used for the expanded "eligible activities" cited above (e.g., infrastructure improvements, demolition, and so forth), the approval of the Michigan Economic Growth Authority (MEGA) board would be required (but not the approval of the Department of Environmental Quality), as would a development agreement between the municipality and the owner of the eligible property. Further, the bill specifies that an authority could not use captured school operating taxes for these activities, nor use funds from a local site remediation revolving fund derived from captured school operating taxes, unless the activities were consistent with a project approved by MEGA.

• Current law specifies that an authority may not capture school operating taxes from eligible property unless the eligible activities to be conducted on the property are consistent with a work plan or remedial plan (for cleanup of environmental contamination) approved by the Department of Environmental Quality between July 24, 1996 and January 1, 2001. The bill would rewrite this provision to make it apply only to "eligible activities" as defined under current law (e.g., cleanup of environmental activities but not to the expanded list of activities such as infrastructure improvements and so forth), and extend the ending date for plans to be approved by the DEQ until January 1, 2006. Thus, the bill would extend the current use of the brownfield program until January 1, 2006, and would exempt the expanded types of "eligible activities" from the prohibition on using captured school operating taxes. Under the provision described above, these activities could be funded with the approval of MEGA.

• An authority could not use taxes captured from eligible property to pay for eligible activities that were conducted more than 90 days before a brownfield plan was approved.

• An authority could not use captured school operating taxes for environmental response activities that would benefit a party who was liable for paying for cleanup costs under the Natural Resources and Environmental Protection Act.

• Under current law, a municipality may establish a brownfield redevelopment authority, which then designates brownfield redevelopment zones to target property eligible for economic development financing. The bill would eliminate references to zones in the act, and instead allow an authority to exercise its powers under the act over any "eligible property" located in the municipality. Zones established under current law would continue to exist, and their boundaries could be altered under the act's existing requirements for holding a public hearing before adoption of a resolution creating a brownfield authority.

• The bill would require, additionally, the governing body of a municipality to hold a public hearing before adopting a brownfield plan. (Currently the law does not specifically require a hearing but requires notice and a reasonable opportunity for affected taxing jurisdictions to express their concerns.) The bill would require that public notice of the hearing be published twice in a newspaper of general circulation at least 20 days before the hearing. The notice would have to contain a description of the property to be addressed by a proposed brownfields plan, and a statement that maps, plats, and a plan description were available for public viewing. The bill would require that interested persons be given opportunity to be heard and would require the governing body to receive and consider written communications about the plan. The governing body would be required to make and preserve a public record of the public hearing, including all data presented. Further, the governing body would have to notify the affected taxing jurisdictions at least 20 days before the hearing, and fully inform them about the fiscal and economic implications of the plan. Officials from affected taxing jurisdictions would have a right to be heard at the public hearing.

Analyst: D. Martens