House
Legislative
Analysis
Section

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CERTIFIED TECHNOLOGY PARKS

House Bill 5766 (Substitute H-1)
Sponsor: Rep. Janet Kukuk

House Bill 5767 (Substitute H-1)
Sponsor: Rep. Wayne Kuipers

Committee: Economic Development
First Analysis (5-23-00)

THE APPARENT PROBLEM:

One of the stated economic development goals of the Engler Administration is "to create a positive environment for technology growth in Michigan." As means to that end, the administration held a series of innovation forums during 1998 and 1999 to solicit recommendations about how to attract and expand new businesses and to create new jobs. On April 23, 1999, the date of the last forum, the governor presented a report developed by the Michigan Economic Development Corporation entitled State Smart: Michigan: A Plan for Accelerating the Growth of Technology-Based Jobs. Part of the report was a so-called Gold Collar Jobs Tax Package with the stated aim of leveling the playing field between technology-based firms and traditional industries by providing the same tax benefits to each. The package included a recommendation to amend the Plant Rehabilitation and Industrial Developments Districts Act, known as PA 198, to allow high technology firms to qualify for property tax abatements in the same way manufacturers can. The package also proposed the development of a network of "smart parks", a kind of high-technology industrial park, with tax increment financing to be used to develop the infrastructure and services. The report says, "Smart Parks could include such features as teleconferencing facilities, high-speed telecommunications services, training centers, day care centers, university research laboratories and business incubators." Legislation to implement these two recommendations has been introduced.

THE CONTENT OF THE BILLS:

House Bill 5766 would amend the Local Development Financing Act to provide for the creation of "certified technology parks", expand the use of tax increment financing under the act, and make other general amendments to the act. It would include as eligible property a business incubator and a high technology activity. The definition of "high technology activity" would be incorporated from the Michigan Economic Growth Authority (MEGA) Act.

House Bill 5767 would amend the Plant Rehabilitation and Industrial Development Districts Act (MCL 207.552), also known as PA 198, to incorporate the definition of "high technology activity" from the MEGA Act and list such high technology activity within its definition of "industrial property".

Both bills are tie-barred to House Bill 5443, which would amend the Michigan Economic Growth Authority Act as part of the larger brownfield redevelopment package and was enrolled on 5-18-00. House Bill 5443 would, among other things, add the definition of "high technology activity" to the MEGA Act. The term would refer to advanced computing; advanced materials; biotechnology, but not cloning or stem cell research with embryonic tissue; electronic device technology; engineering or laboratory testing; technology assisting in the assessment or prevention of threats or damage to human health or the environment; medical device technology; product research and development; and advance vehicles technology, including technology involving electric vehicles, hybrid vehicles, and alternative fuel vehicles.

House Bill 5766. Under the Local Development Financing Act, a local government may create a local development financing authority to finance public improvements in a given area, by capturing increases in property tax revenues due to increased value. (Typically, the captured taxes are used to support bond issues.) Currently, a tax increment finance plan adopted by an authority can only provide for the use of tax increment revenues to pay for public facilities for eligible property whose captured assessed value produces the tax increment revenues, or, if the eligible property is located in a certified industrial park, for public improvements for other eligible property located

in the certified industrial park. "Public facility" includes a) infrastructure, such as roads, bridges, sewers, rail lines, utilities, and the like; b) acquisition of land, demolition, site preparation, and relocation costs; c) administrative costs; and d) improvements made to comply with the barrier free design requirements of the State Construction Code. "Eligible property" means land improvements, buildings, machinery, equipment, furniture, and the like located within an authority district whose primary purpose is a) manufacturing; b) agricultural processing; c) a high technology activity (however, the high technology provision expired January 1, 1993); or d) certain energy production activities. The bill would make the following changes in these provisions.

Business development areas. The term "certified industrial park" would be replaced with the term "business development area". The bill would delete the current specific requirements for certified industrial parks (including minimum size, zoning, and so forth) and specify instead that a business development area would have to be zoned to allow its use as "eligible property" (i.e., manufacturing, etc.); have an approved site plan; and include contiguous or adjacent parcels of property. A "certified business park" would be a business development area that had been designated by the Michigan Economic Development Corporation as meeting certain standards set by the MEDC, including use, types of building materials, landscaping, setbacks, parking, storage areas, and management.

Eligible property. The definition of "eligible property" would be expanded to include "business incubators" and "high technology activities". A business incubator would be defined to mean real and personal property located in a "certified technology park" (see below), and developed for the primary purpose of attracting one or more owners or tenants who would engage in high technology activities.

Public facilities. The bill would expand the definition of a "public facility" (that can be paid for using tax increment financing revenues). Under the bill, if approved by the Michigan Economic Development Corporation, the following would be considered to be a "public facility":

• operational costs for a business incubator located in a certified technology park and costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that were or were to become eligible for depreciation under the federal Internal Revenue Code for an incubator;

• the same costs listed above for laboratories, research and development facilities, conference facilities, teleconference facilities, testing, training facilities, and quality control facilities that support high technology activities located in a certified technology park; and

• operating and planning costs, including costs of marketing property within the district and attracting development of eligible property.

The bill would specify that property could not be acquired as a public facility (with tax increment finance revenues) unless it was intended to be used in the development of eligible property. Property that was acquired as a public facility by an authority could be sold, conveyed, or otherwise disposed of to any person, public or private, for any consideration established by the authority; this could be payable in cash or noncash consideration, or for no consideration other than to assist the authority in fulfilling the purposes of its tax increment financing plan. Unless the property was located in a certified business park or a certified technology park, any proceeds from the sale or disposition of the property (to the extent it was acquired with tax increment revenues) would have to be remitted to the taxing jurisdictions in proportion to the amount of tax increment revenues that were attributable to each jurisdiction in the year the property was acquired. If such property was located in a certified business park or certified technology park, proceeds of its sale could be retained by the authority.

Certified technology parks. The bill would add new provisions allowing, until December 31, 2003, the designation of "certified technology parks" with expanded tax increment financing authority (see below). Under the bill, a municipality that had created an authority could apply to the Michigan Economic Development Corporation for designation of all or a portion of the authority district as a certified technology park. The MEDC could designate up to ten certified technology parks; up to seven of the ten could be designated without a firm commitment from at least one business engaged in a high technology activity creating a significant number of jobs. The MEDC would have to give priority to applications that included new business activity.

To be designated as a certified technology park, the MEDC would have to determine that an authority had at least one of the following:

• a demonstration of significant support from an institution of higher learning or a private research-based institute located within the proximity of the proposed technology park, as evidenced by grants of preferences for access to and commercialization of intellectual property, access to laboratory and other facilities, donations of services, access to telecommunications facilities and other infrastructure, financial commitments, access to faculty, staff, and students, and opportunities for adjunct faculty and other types of staff affiliations;

• a demonstration of a significant commitment by an institution of higher education or private research-based institute to the commercialization or research produced at the technology park, as evidenced by intellectual property and tenure policies that reward faculty and staff for commercialization and collaboration with private businesses;

• a demonstration that the proposed technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area;

• the existence of or proposed development of a business incubator within the proposed technology park that exhibits significant financial and other types of support from the local area, a business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises, and a commitment to employing a full-time manager;

• the existence of a business plan for the proposed technology park that identifies clear and measurable objectives, addressing a commitment to new business formation, the clustering of businesses, technology, and research, properties under common ownership or control, plans for necessary infrastructure, and assumptions of costs and revenues; and

• a demonstrable and satisfactory assurance that the proposed technology park can be developed to principally contain high technology and business incubator activities.

The authority and the appropriate municipality would enter into an agreement with the MEDC to establish the terms and conditions governing the certified technology park. However, subsequent failure of any party to comply with the agreement would not result in the termination of the designation.

An agreement would include:

• a description of the area to be included;

• covenants and restrictions, if any, on the properties contained within the certified technology park, and terms of enforcement;

• financial commitments of any party to the agreement and of property owners or developers;

• the terms of any commitment required from an institution of higher education or private research-based institute;

• the terms of enforcement of the agreement, which could include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the concurrence of an event of default; the public facilities to be developed for the certified technology park; and

• the costs approved for the public facilities.

If the MEDC determined that a sale price or rental value at below market rate or for no consideration would assist in increasing employment or private investment in a certified technology park, the authority or municipality would have the authority to make such a below market rate sale or conveyance. If public facilities were conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease would have to include legal and equitable remedies and rights to assure the facilities were used as eligible property. This could include penalties and actual or liquidated damages.

The bill would require the MEDC to market certified technology parks and certified business parks. The MEDC and an authority could contract with each other or any third party for these marketing services.

Expansion of tax increment financing. The bill would allow a tax increment financing plan to include property, other than "eligible property", in a certified technology park. In other words, a local development finance authority could capture tax increment revenues attributable to all property within a certified technology park to pay for public facilities, and not just the tax increment revenues attributable to the "eligible property" within the park. Further, the bill would allow for the capture of school tax revenues to pay for public facilities for eligible property located within a certified technology park. And, where current law allows a taxing jurisdiction to exempt itself from having revenue

captured under a tax increment financing plan, under the bill, only a local or intermediate school district could "opt out" from having tax revenues captured if the revenues are to be used for a certified technology park. The state would be required to reimburse the State School Aid Fund for all lost revenue due to the creation and financing of a certified technology park.

The bill would require that a tax increment financing plan adopted by an authority include the proposed boundaries of a certified technology park, an identification of the real property to be included within the tax increment financing plan, and whether personal property located in the proposed park would be exempt from determining tax increment revenues.

Authority operating funds. The bill would allow an authority to finance its activities with loans obtained from the Michigan Strategic Fund or the Michigan Economic Development Corporation.

Elimination of "anti-raiding" language. The bill would delete from the act language requiring the consent of the local unit of government that would lose employment due to a business relocation caused by including certain "eligible property" in a tax increment financing plan. (Similar language was eliminated from Public Act 198 of 1974, the plant rehabilitation and industrial development act, by Public Act 144 of 1999.)

MCL 125.2152 et al.

BACKGROUND INFORMATION:

The entire State Smart: Michigan report can be found on the web site of the Michigan Economic Development Corporation at http://medc.michigan.org/news/news_index.htm.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that House Bill 5766 would decrease state revenues from the six-mill state education tax and could increase state costs related to the state portion of the foundation allowance paid to school districts. The HFA notes that the School Aid Act requires the state to include local property taxes captured through tax increment financing in the state's portion of the foundation allowance. The magnitude of the revenue and cost impacts is indeterminate, says the HFA, and depends on the number of parks designated and the assessed value of the eligible property developed within the parks. (HFA fiscal note dated 5-11-00)

ARGUMENTS:

For:

The bills aim to implement recommendations made in the State Smart: Michigan report prepared for the governor by the Michigan Economic Development Corporation in order to provide tax benefits that will attract high technology companies and jobs to the state. House Bill 5767 would simply extend the benefits PA 198 now provides to manufacturers to high technology activities, allowing local units to abate property taxes. House Bill 5766 would extensively rewrite the Local Development Financing Act, an act allowing a certain kind of tax increment financing plan, to encourage high technology activities. The act now is essentially a means of helping local units create industrial parks. The bill would allow for the creation of special technology parks. These parks are envisioned to contain a variety of publicly provided facilities and services useful to high-tech firms. Captured taxes would be used to create these park facilities (probably through bond issues). According to MEDC information, the expansion of the act "will affect the type of properties considered eligible property from which taxes may be captured and for which public facilities could be developed, the range of public facilities that could be financed with tax increment revenues, and the types of taxes that may be captured. It will also reduce limitations upon the designations of business development areas and expand the scope of property from which tax increments may be captured in certified technology parks."

For example, the bill would allow business incubators and high technology activities to be eligible property under the act. It would allow the MEDC to designate 10 certified technology parks, from local unit applications. An LDFA authority could capture from any property, whether eligible property or not, in a certified technology park to develop public facilities for an eligible property. It would allow as "public facilities" business incubators that would offer services and products to high technology companies, as well as facilities for laboratories, research and development, teleconferencing, quality control, etc. to be owned by a public entity and to serve high technology property. The bill would allow state and local school taxes to be captured to fund public facilities in a certified technology park (although ISD's and local school districts can opt out). It should be noted that local units could continue to use the act for its original purposes.

POSITIONS:

Representatives of the Michigan Economic Development Corporation testified in support of the bills. (5-16-00)

The Michigan Municipal League supports the bills. (5-17-00)

A representative of the Washtenaw Development Council testified in support of the bill and urged the adoption of an amendment allowing two municipalities within a county to form an authority to jointly create a certified technology park. (5-15-00)

Battle Creek Unlimited, Inc. has indicated its support for the bill. (5-16-00)

Analyst: C. Couch

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.