



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 164 (as passed by the Senate)
Sponsor: Senator Sue Shink
Committee: Economic and Community Development

Date Completed: 5-25-23

RATIONALE

If private property owners within a defined area of a municipality wish to promote economic development in the area, they may create a business improvement zone (BIZ). A BIZ finances its projects, such as maintaining fountains and street lighting, by levying special assessments. Public Act (PA) 91 of 2020 amended Chapter 2 (Business Improvement Zones) of PA 120 of 1961 in two major ways. Firstly, it required that assessments be allocated on the benefits to assessable property rather than on taxable or assessed value. Secondly, it removed a requirement that a zone plan utilize weighted voting based on taxable or assessed value, which allowed small property owners to contribute less than large property owners but still experience benefits. Some people believe that the changes made by PA 91 have made Chapter 2 unusable, as small property owners may not be able to contribute an equal share to the BIZ like large property owners can. Accordingly, with the renewal deadlines for some BIZs looming and several proposed BIZs placed on hold, it has been suggested that PA 91's provisions be deleted.

CONTENT

The bill would amend Chapter 2 of PA 120 of 1961, which authorizes the development of principal shopping districts and BIZs, to do the following:

- Delete a requirement that a zone plan must allocate assessments on the basis of the benefit to assessable property.**
- Allow a zone plan to include assessments if the plan provided for their allocation based on at least one of the factors that the bill prescribed.**
- Specify that if the zone plan for a zone area provided a basis for the allocation of assessments based on assessed value, the majority of all properties within the proposed zone area, by assessed value and square footage, would have to be assessable property.**
- Specify that if the zone plan for a zone area provided a basis for the allocation of assessments on a basis other than assessed value, the majority of all properties within the proposed zone area, by taxable value and square footage, would have to be assessable property.**
- Allow a zone plan to include caps on the assessment amounts paid by an owner of assessable property and caps on the growth of assessment amounts.**
- Delete a requirement that the proposed initial board of directors for the zone include at least one owner of residential real property if that property were determined assessable property.**
- Require a petition for the establishment of a BIZ to include, if proportional voting would apply, a description of the proportional voting mechanism to be used or, if proportional voting would not apply, a statement to that effect.**
- Delete a requirement that any notice required as part of the assessment process include a statement that a residential property owner within a BIZ may seek a homestead deferment for an assessment.**

- **Prescribe the allocations for the proportional vote of a property owner if a zone plan provided for proportional voting.**
- **Specify that the proportional vote allocated to any one property owner could not exceed 25% and prescribe procedures for reallocating votes over that threshold.**

Establishment of a BIZ

Chapter 2 of the Act specifies the procedures under which a BIZ may be planned, enacted, operated, and dissolved. A BIZ differs from a Business Improvement District (BID) or Principal Shopping District (PSD) in that it is established by a group of private property owners, not by a city, village, or urban township.

Generally, to initiate the establishment of a BIZ, an individual must submit a petition to the clerk of the city or village in which the proposed BIZ is location. The petition must include a variety of items used to identify each assessable property included in the zone area, such as the signatures of property owners of parcels representing at least 30% of the property owners within the zone area. The bill would specify that these property owners must own parcels of assessable property within the zone area. In determining whether this 30% threshold was met, the number of required signatures would have to be determined and the signatures of property owners allocated in the same manner as any proportional vote provided in the proposed zone plan (see below).

(Under the bill, "assessable property" would mean real property exempt from the collection of taxes under the General Property Tax Act or real property in a zone area other than property classified as residential real property under Section 34c of the General Property Tax Act, i.e., property that is used or will be used for residential or recreational purposes, such as lake lots or hunting lands.)

An individual must submit the zone plan with the petition, including the proposed initial board of directors for the zone. The bill would delete a requirement that the board include at least one owner of residential real property if residential real property was determined assessable property by the local governing unit. The bill also would require that the zone plan include, if proportional voting would apply, a description of the proportional voting mechanism to be used or, if proportional voting did not apply, a statement to that effect.

If a petition is delivered to the clerk of the city or village in the appropriate manner, the governing body of the city or village must schedule a public hearing to review the zone plan and any proposed assessment and to receive public comment. At this hearing, the property owners can amend the zone plan through a majority vote. After the public hearing, property owners vote, by mail, on the adoption of the zone plan and the establishment of the BIZ. The zone plan is adopted and the BIZ established upon the approval of more than 60% of the property-owning voters. A BIZ must be dissolved upon a vote of more than 50% of the property owners of assessable property during an annual or special meeting.

The bill would allow property owners, throughout the process, to vote by proportional vote if applicable under the zone plan. It also would delete a requirement that any notice required as part of the assessment process include a statement that a residential property owner within a BIZ may seek a homestead deferment for an assessment.

Proportional Voting

Proportional representation is an electoral system in which each voting bloc receives a

corresponding allotment of the resource in question. For BIZs, assessments are allotted. Under the bill, the use of proportional voting would have to be specified in a BIZ zone plan. If the zone plan for a zone area provided a basis for allocating assessments based upon *taxable* value, the votes of property owners could be proportionate to the amount that the *taxable* value of their respective real property for the preceding calendar year bore to the *taxable* value of all assessable property in the zone area for that calendar year. If the zone plan provided for allocating assessment based upon *assessed* value, the votes could be proportionate to the amount that the *assessed* value of their respective real property for the preceding calendar year bore to the *assessed* value of all assessable property in the zone area for that year.

If the zone plan for the zone area provided a basis for allocating assessments other than taxable value or assessed value, the votes of property owners could be proportionate to the *amount* that the assessment for their respective real property for the prior calendar year bore to the *total value of assessments* for assessable property in the zone area in that year.

The proportional vote allocated to any one property owner could not exceed 25% of the total vote. If the proportional vote of a single property owner exceeded 25%, the amount in excess of 25% would have to be reallocated among the remaining property owners in proportion to the amount that the assessment of their respective assessable property for the prior calendar year bore to the assessment of all assessable property in the zone area owned by the remaining property owners during that calendar year.

Property owners that were affiliates would be treated as a single property owner. "Affiliate" would mean that term as defined in Section 90/ of the Michigan Strategic Fund Act: an entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another entity. An entity is controlled by another entity if the controlling entity holds, directly or indirectly, the majority voting or ownership interest in the controlled entity or has control over the day-to-day operations of the controlled entity by contract or law.

The bill would specify that the Treasurer of the city or village in which the BIZ was located would collect assessments from each property owner within the zone area and remit the assessments collected to the BIZ.

All payments to the treasurer must be applied first to the balance of any property taxes owed to the city or village, with the remaining payment amount considered assessment revenue belonging to the BIZ. The bill would delete this provision.

Assessment Requirements

The bill would delete a provision stating that the zone plan must allocate assessments on the basis of the benefit to assessable property. It also would allow a zone plan to provide for assessments. If a zone plan provided for assessments, the plan would have to include the basis for the allocation of assessments, which could be one or more of the following:

- Assessed value.
- Taxable value.
- Square footage.
- Street frontage.
- Any other factor relating to assessable property identified in the zone plan.

If the zone plan for a zone area provided a basis for the allocation of assessments on the basis of assessed value, the majority of all properties within the zone area, both by *assessed* value and square footage, would have to be assessable property. If the zone plan for a zone area provided a basis for the allocation of assessments on a basis other than assessed value, the majority of all properties within the zone area, both by *taxable* value and square footage, would have to be assessable property. The bill would allow a zone plan to provide for caps on the assessment amounts paid by an owner of assessable property and for caps on the growth of assessment amounts.

MCL 125.990 et al.

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bill 164 is a reintroduction of Senate Bill 1224 of the 2021-2022 Legislative Session. The bill passed the Senate and was discharged from the House Committee on Tax Policy but received no further action.

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

Reversing the changes made by PA 91, which removed a BIZ's ability to vote proportionally, would make the program workable. A BIZ must include 30% of property owners within a zone area. These property owners may differ significantly in size. For example, the Downtown Detroit BIZ includes large organizations like Rocket Companies as well as small businesses. According to testimony before the Senate Committee on Economic and Community Development, 30 of the largest property owners in the Downtown Detroit BIZ contribute around 75% of the BIZ's assessment, close to \$4.0 million per year; however, the median assessment per parcel is about \$1,500. Without proportional voting, members of a BIZ must contribute equally to an assessment, which may be unaffordable for several small businesses. The Downtown BIZ must be reauthorized by early 2024 but its renewal vote has been put on hold for this reason. Authorizing BIZs to utilize proportional voting once again would allow members to contribute equitably, based on their usage of the services provided by the BIZ. Small property owners would contribute less than large owners but continue to derive benefits from membership in the BIZ. Without reintroducing proportional voting, BIZs would remain unusable.

Supporting Argument

Allowing BIZ plans to use proportional voting and base assessments on taxable or assessed value would increase local flexibility on how zones are planned and governed. In addition to being able to utilize proportional or non-proportional voting, the bill would allow a zone plan to include assessments allocated on assessed value, taxable value, square footage, street frontage, or any other factor relating to assessable property, rather than only benefit to assessable property. For example, according to testimony before the Senate Committee on Economic and Community Development, a BIZ centered in downtown Ann Arbor based its weighted assessment allocation on square footage and street frontage, with businesses in need of more snow removal contributing more to assessments. Offering BIZs more options would allow them to customize their plans to make the most out of the program.

Legislative Analyst: Abby Schneider

FISCAL IMPACT

The bill would have no fiscal impact on State government but could have a negative fiscal impact on local units of government. The bill would eliminate a requirement that cities and villages apply BIZ assessments first to property taxes owed by property owners, which would reduce revenue to cities or villages.

Fiscal Analyst: Robert Canell

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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.