



SENATE BILL No. 1092

July 3, 1996, Introduced by Senator A. SMITH and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to provide for the reuse of certain real property in certain areas for economic development purposes to reduce urban sprawl and to aid in the revitalization of property that is served by existing infrastructure; to prescribe the powers and duties of certain state departments and officials, communities, and other persons; and to prescribe procedures and criteria for the issuance and repayment of loans.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Community" means a city, township, or village that
3 meets the eligibility requirements of this act.

4 (b) "Council" means 1 or more counties, that in conjunction
5 with at least 2 cities, villages, or townships that are located
6 within a participating county, join together to address growth
7 issues that affect a project area as required under section 3. A

1 council also may in addition include regional planning entities,
2 metropolitan planning councils, and similar alliances established
3 to facilitate economic development.

4 (c) "Department" means the department of commerce.

5 (d) "Economic development purposes" means purposes that fur-
6 ther job creation, tax base enhancement, neighborhood physical
7 revitalization, and public and private investment in the area
8 served by a project and in the region as a whole.

9 (e) "Fund" means the fund created in section 2.

10 (f) "Infrastructure" means roads and public water and sewer
11 systems, utility service, and related land, equipment, and struc-
12 tures necessary to serve a project area.

13 (g) "Loan" means a disbursement of money from the fund to a
14 community that is a member of a council to finance a project that
15 meets the requirements of this act.

16 (h) "Person" means an individual, partnership, corporation,
17 association, governmental entity, or other legal entity.

18 (i) "Physical revitalization" means the replacement, reha-
19 bilitation, or restoration of existing neighborhood facilities or
20 the creation of 1 or more new neighborhood facilities.

21 Neighborhood facilities may include streets, sidewalks, parks,
22 recreational facilities, residential structures, and public
23 facilities.

24 (j) "Project" means the assembly within a community of real
25 property for economic development purposes, and may include, but,
26 is not limited to, the purchase of property, necessary
27 demolition, relocation of persons, necessary environmental

1 investigation and remediation activities, and site improvements
2 required to make the property marketable for a proposed use to
3 reduce urban sprawl, or to aid in reutilizing property.

4 (k) "Project area" means the boundaries of the real property
5 to be purchased or as described in the project plan.

6 (l) "Project plan" means the information required by the
7 department for review of a proposed project.

8 (m) "Rule" means a rule promulgated pursuant to the adminis-
9 trative procedures act of 1969, Act No. 306 of the Public Acts of
10 1969, being sections 24.201 to 24.328 of the Michigan Compiled
11 Laws.

12 Sec. 2. (1) A fund is created within the state treasury.
13 The department shall administer the fund. The fund shall receive
14 money from appropriations that may include money from the general
15 fund and from any other lawful source.

16 (2) The fund shall be used for projects within communities
17 for economic development purposes, to reduce urban sprawl, and to
18 aid in reutilizing property that is served by existing infra-
19 structure for communities that belong to a council and that meet
20 the eligibility requirements of this act.

21 (3) The fund shall operate on a revolving basis. Annual
22 appropriations, repayments to the fund, and all interest earned
23 by the fund shall remain in the fund to be made available for
24 future loans.

25 (4) This act shall not be implemented until the legislature
26 appropriates funds to provide for the issuance of loans as
27 provided in this act.

1 Sec. 3. (1) A community that is a member of a council is
2 eligible to apply for a loan from the fund if the council has
3 defined a geographic area to be served that consists of at least
4 1 county and has representation on the council from the county
5 government and at least 2 cities, villages, or townships within
6 the participating county. A community shall only apply for money
7 from the fund for the same project as a member of a single
8 council.

9 (2) A regional planning agency, metro council, or similar
10 alliance that is in existence within a geographic area that seeks
11 to become a council may be a member of a council or may represent
12 the county on a council with the approval of the county board of
13 commissioners and the county executive of the county in which it
14 is located, if applicable.

15 (3) A council shall meet the threshold planning requirements
16 by adopting a growth management policy for the area being planned
17 and establishing a strategy to implement the growth management
18 policy. A growth management policy shall do all of the
19 following:

20 (a) Encourage economic development in areas served by exist-
21 ing infrastructure.

22 (b) Encourage necessary improvements in existing
23 infrastructure.

24 (c) Encourage existing economic base industries to remain
25 and reinvest at their present locations.

1 (d) Support the development of regional transportation and
2 road systems that complement each other and provide for travel to
3 and from places of employment and for the movement of goods.

4 (e) Support urban and suburban residential neighborhoods and
5 community facilities as essential elements in a balanced and com-
6 petitive regional economy or support the type of infrastructure
7 investments in rural areas that support rural residential and
8 related town center land uses that enhance long-term stability
9 and discourage urban sprawl.

10 (f) Recognize and support the preservation and enhancement
11 of open space and quality of life features that discourage urban
12 sprawl.

13 (4) A community that is a member of a council is eligible to
14 receive a loan from the fund if that community adopts through
15 resolution or comparable legislative action the council's growth
16 management policy as described in subsection (3).

17 Sec. 4. (1) If a council completes all the threshold
18 requirements of section 3, the council may submit the required
19 information for formal acceptance as a council to the
20 department.

21 (2) The organizers of a proposed council shall propose orga-
22 nizational bylaws by which its operations shall be governed. The
23 bylaws shall include a process for reviewing new applications for
24 admission to the council on at least an annual basis. Upon
25 receipt of an application for formation of a council, including
26 the proposed bylaws, the department shall approve the formation
27 of a council if it meets the requirements of this act. Upon

1 formation, a council shall consider applications for loans from
2 the fund submitted to the council by 1 or more of its community
3 members.

4 (3) Prior to submittal to the department, a council shall
5 prioritize all projects submitted to the council for review and
6 later submittal by a community to the department. The prioritization shall be prepared and evaluated by the council based on
7 zation shall be prepared and evaluated by the council based on
8 the following point project rating model as applied to the applying community:
9

10 PROJECT RATING MODEL

| 11 <u>Criteria</u> | <u>Points</u> |
|--|---------------|
| 12 I. Money from the fund invested in relation to number of full-time employment positions projected. | 0 to 5 |
| 15 II. Private investment as a percentage of total project funding. A higher percentage of private investment shall receive more points. | 0 to 5 |
| 19 III. Federal and community investment as a percent of total project funding, and state investment other than from fund investment, in relation to fund investment. A higher percentage of public investment, other than from the fund, shall receive more points. | 0 to 5 |
| 26 IV. Percentage value added to local tax base, using state equalized value. A | |

| | | |
|----|--|-------------|
| 1 | higher value added to the local tax | |
| 2 | base shall receive more points. | 0 to 10 |
| 3 | V. Contribution to neighborhood physical | |
| 4 | revitalization. | 0 to 10 |
| 5 | VI. Immediate reuse potential. | 0 to 10 |
| 6 | VII. Relative tax effort as annually deter- | |
| 7 | mined by the department of treasury. | 0 to 15 |
| 8 | VIII. Encouragement to reuse existing infra- | |
| 9 | structure and previously developed | |
| 10 | property. | 0 to 15 |
| 11 | IX. Michigan community indicator and the | |
| 12 | relative distress index as annually | |
| 13 | developed by the department. | 0 to 15 |
| 14 | X. Other factors that the council consid- | |
| 15 | ers appropriate. | 0 to 10 |
| 16 | | TOTAL ===== |

17 Maximum Points = 100

18 (4) The council shall submit to the department a breakdown
19 of the rating model under subsection (3) for each application
20 submitted under this act.

21 Sec. 5. (1) In addition to rating each proposed project in
22 accordance with the project rating model, a council shall develop
23 and submit to the department its own criteria to assess the fea-
24 sibility and desirability of a project proposed by a community
25 that is a member of the council. However, at a minimum, the cri-
26 teria shall require all of the following:

1 (a) That the growth management policy described in section 3
2 is met.

3 (b) An assessment of the reasonable likelihood of project
4 development.

5 (c) That the projected cost of the project is reasonable in
6 relation to a comparable project.

7 (d) That the eligibility requirements of this act are met.

8 (2) Communities are encouraged to apply for planning loans
9 as described in subsection (3)(a) and to undertake detailed
10 studies of project costs, benefits, and feasibility before apply-
11 ing for loans for eligible project implementation activities as
12 described in subsection (3)(b), (c), and (d).

13 (3) Communities that receive approval of a preliminary
14 project application from the council may make an application for
15 a loan from the fund for 1 or more of the following eligible
16 activities:

17 (a) Planning and application preparation are eligible activ-
18 ities where at least 25% of the cost of preparing the application
19 and planning is provided by the applicant. Money from the fund
20 expended for planning and application preparation shall not
21 exceed 5% of disbursements from the fund for any application
22 period provided under section 7(1). Eligible activities are:

23 (i) Planning for the purchase of land and facilities and
24 site preparation.

25 (ii) Planning for site design costs, for environmental
26 assessments or environmental impact statement studies, for

1 economic development corporation studies and other studies
2 related to development of a site.

3 (iii) Development of plans for industrial parks, commercial
4 centers, research and development facilities and office centers,
5 town centers, and mixed use projects.

6 (iv) Appraisals for acquisition of land, demolition, and
7 relocation.

8 (v) Plans for the reuse of existing facilities to meet the
9 specifications of a user.

10 (vi) Options on land critical to a project.

11 (vii) Legal fees for organizing the project, except if legal
12 fees are paid pursuant to the uniform condemnation procedures
13 act, Act No. 87 of the Public Acts of 1980, being sections 213.51
14 to 213.77 of the Michigan Compiled Laws.

15 (viii) Other professional fees.

16 (b) Providing for infrastructure if the need to update
17 infrastructure or provide for de minimis modifications of exist-
18 ing infrastructure, or both, is a prime consideration in attract-
19 ing reinvestment to areas where underutilized infrastructure
20 exists.

21 (c) Land assembly, relocation, and demolition.

22 (d) Environmental cleanup, if there is a need for cleanup of
23 environmental contamination, expenditures not to exceed 10% of
24 disbursements from the fund for any application period provided
25 for in section 7(1). Money expended under this subsection shall
26 be expended in the same manner as state funds expended under the
27 environmental response act, Act No. 307 of the Public Acts of

1 1982, being sections 299.601 to 299.618 of the Michigan Compiled
2 Laws. Such expenditures do not cause the state to forfeit its
3 right to recover money under Act No. 307 of the Public Acts of
4 1982.

5 (4) If the council approves the application of the council
6 member and finds it meets the requirement of this section, the
7 council shall submit the application to the department. An
8 applicant for a loan shall distinguish an application for a plan-
9 ning loan from an application for a project implementation loan
10 for infrastructure improvements, environmental clean up, or land
11 assembly, relocation, and demolition. A council shall assist its
12 members in fulfilling the requirements for an application for a
13 loan.

14 (5) In addition to the other requirements of this section, a
15 council shall attest to all of the following in an affidavit that
16 accompanies an application for a loan from the fund:

17 (a) That the project community within the council is served
18 or is designated for service by public water and sewer services
19 and capacity is available for the project.

20 (b) That at the time the application is approved by the
21 council, the project is not expected to result in the transfer of
22 employment from 1 community of this state to another community in
23 this state in which the project is to be located unless the gov-
24 erning body of each impacted community from which employment is
25 to be transferred consents by resolution to the transfer.

26 Sec. 6. Except for funding for activities described in
27 section 5(3)(a), an application for a project funding that is

1 submitted to a council by a community that is a member of the
2 council for a specific project shall include all of the
3 following:

4 (a) A project plan that meets the requirements of this act.

5 (b) A description of the project's consistency with plans
6 for economic development, the community's master plan, if a
7 master plan has been adopted, and the council's adopted growth
8 management policy.

9 (c) A description of the real property planned to be
10 acquired for industrial or commercial use.

11 (d) A description of the planned industrial, commercial, or
12 mixed reuse of the project area and, if displacement of a person
13 is to occur, a plan for providing for the person to be
14 displaced.

15 (e) A description of the economic impact of the proposed
16 project, including, but not limited to, the reduction of urban
17 sprawl and to aid in reutilization of property that is served by
18 existing infrastructure and including market and financial feasi-
19 bility evaluations.

20 Sec. 7. (1) Upon the request of a council, the state shall
21 provide technical assistance to the council and to council mem-
22 bers in the preparation of a project. The department shall
23 accept applications from January 1-15, May 1-15, and
24 September 1-15 of each calendar year.

25 (2) Upon receipt of an application for a loan from a council
26 on behalf of a community that is a member of that council, the
27 department within 60 days shall take all of the following steps:

1 (a) Review the prioritized projects based upon the project
2 rating model scores and the criteria of the council required
3 under section 5 from all councils and prioritize all projects on
4 a statewide basis. Planning loan applications and implementation
5 loan applications shall be prioritized as separate groups.

6 (b) Following the review under subdivision (a), evaluate the
7 statewide prioritized list giving primary consideration to all of
8 the following:

9 (i) Evidence of market feasibility and project financing
10 feasibility, including scheduled repayment.

11 (ii) Implementation of adopted regional growth management
12 policies and the project's consistency with this act.

13 (iii) The annual geographic distribution of projects funded
14 throughout the state.

15 (iv) Existence of opposition from a city, village, or town-
16 ship within a county that is a member of a council, or a city,
17 village, or township adjacent to the applicant community.

18 (c) Deny any project that is not in compliance with the pri-
19 mary considerations in subdivision (b)(i), (ii), and (iii).

20 (3) Projects will be reviewed and prioritized statewide
21 within 60 calendar days from the date the department has set for
22 application receipt. At the close of the 60 calendar days for
23 review, the department shall notify the council of the approval
24 or disapproval of an application. When an application has been
25 disapproved, the reason for disapproval shall be specified.

26 (4) Upon making a decision to provide either a project
27 planning or project implementation loan, the department shall

1 inform a council of the decision of the department and inform the
2 council of what, if anything, is required of it and the applicant
3 to obtain the authorized loan for a project.

4 Sec. 8. (1) A loan agreement shall be executed between the
5 department and the community that receives a loan. The agreement
6 shall include a description of the project, provisions for repay-
7 ment that meet the requirements of this act, and any qualifica-
8 tion placed on receipt of the loan. Following the execution of a
9 loan agreement, substantial changes to the project shall not be
10 made by the applicant without the written approval of the
11 department. Upon request for a change in a project, the depart-
12 ment shall approve or deny the request within 30 days.

13 (2) A community that receives money from the fund shall
14 submit an annual report to the department, which shall include
15 information and documentation regarding the sale or other dispo-
16 sition of property that is the subject of the loan and any other
17 information required by the department.

18 (3) The loan agreement between the community and department
19 shall include a legally enforceable provision requiring that the
20 community repay the fund as stated in the loan agreement and may
21 include provisions for collateral or security for the loan. This
22 subsection shall not be construed to give priority to repayment
23 to the fund over the interests of a secured lender who provides
24 financing for the project.

25 (4) The loan agreement may provide that a community that
26 receives money from the fund may sell or lease real property to
27 an industrial or commercial user at less than the community's

1 total cost of assembly and improvement, provided the community
2 demonstrates to the department the need to reduce the cost of the
3 real property to make the land economically competitive.

4 (5) The department may negotiate a restructuring of a loan
5 made under this act, under terms and conditions that are agreed
6 to between the department and the recipient of a loan if the
7 necessity for this action is established to the satisfaction of
8 the department.

9 Sec. 9. (1) A community that receives money from the fund
10 shall repay the fund as provided in this section. Upon sale of
11 real property for which money was loaned by the fund, sale pro-
12 ceeds shall be allocated to the fund in proportion to the amount
13 of the loan from the fund as a percentage of the total project
14 cost; and to the community in proportion to the amount of money
15 expended by the community from its own resources on the project,
16 as a percentage of total project cost. The portion of sales pro-
17 ceeds allocated for repayment to the fund shall be remitted to
18 the fund in the manner specified in the loan agreement pursuant
19 to section 8.

20 (2) If real property that was the subject of a loan from the
21 fund is leased, the lease payments shall be allocated to the fund
22 and to the community in the same manner as provided for in
23 subsection (1). Lease payments shall be remitted to the fund as
24 provided for in the loan agreement between the department and the
25 community pursuant to section 8.

26 (3) To the extent that the allocated portion of sales
27 proceeds or lease proceeds or both are expected to be

1 insufficient to repay the full amount of the loan from the fund,
2 the loan agreement may provide that the community shall remit an
3 amount equivalent to the full amount of real and personal prop-
4 erty taxes collected on the project pursuant to the general prop-
5 erty tax act, Act No. 206 of the Public Acts of 1893, being
6 sections 211.1 to 211.157 of the Michigan Compiled Laws, and up
7 to the full amount of industrial facilities tax collected on the
8 project by the community, pursuant to Act No. 198 of the Public
9 Acts of 1974, being sections 207.551 to 207.572 of the Michigan
10 Compiled Laws, exclusive of real and personal property taxes or
11 industrial facility taxes ordinarily allocated to school dis-
12 tricts, counties, and other authorities other than the applicant
13 community, for a period of up to 5 years, or until the fund is
14 repaid in full, whichever occurs first. Payments under this sub-
15 section shall be remitted to the department as provided for in
16 the loan agreement pursuant to section 8.

17 Sec. 10. The department may promulgate rules to implement
18 this act.