

## BROWNFIELD WORK PLANS

### House Bill 4698 (Substitute H-2) First Analysis (5-23-01)

**Sponsor: Rep. Jason Allen**  
**Committee: Commerce**

#### ***THE APPARENT PROBLEM:***

A package of bills enacted during the 1999-2000 legislative session expanded the state's brownfield redevelopment programs in a number of important ways. One of the new provisions allows certain core communities to use tax increment financing arrangements not only to address environmentally contaminated property but also to address problems associated with blighted and functionally obsolete property. The legislation also expands the kinds of projects that tax increment financing can fund. Previously, such financing was restricted to certain contamination-related activities, but Public Act 145 of 2000 allows the financing of a wide range of infrastructure improvements that directly benefit eligible property, including streets, sidewalks, parking facilities, pedestrian malls, sewers, and utility lines, as well as the demolition of structures, the abatement of lead and asbestos, and site preparation.

The new legislation also allows the capture of school operating taxes for the purposes cited above, but only with the approval of a work plan by the Michigan Economic Growth Authority (as well as a development agreement between the municipality and the owner of the property). Public Act 145 put in place a work plan approval process. However, a number of problems have been identified with that process. For example, MEGA is not provided with much in the way of specific criteria to use in evaluating the work plans of local brownfield authorities and, moreover, is not specifically granted the authority to deny work plans. There is also no limit on the number of work plans (and thus of the amount of captured school operating taxes) that MEGA can approve. Legislation has been developed to address these and other brownfield-related problems.

#### ***THE CONTENT OF THE BILL:***

Public Act 145 of 2000 amended the Brownfield Redevelopment Financing Act to allow a brownfield authority to capture school operating taxes for an expanded set of purposes. (Prior to this, these taxes

could only be captured for certain environmental response activities.) For an authority to use school operating taxes for the new purposes, however, a work plan must be approved by the Michigan Economic Growth Authority (MEGA) and there must be an agreement between the municipality and the owner of the property. House Bill 4698 would make a number of amendments to the process by which MEGA evaluates these work plans.

- Currently, MEGA must provide a written response to a request for a work plan approval within 60 days. The bill would change this to 90 days.

- The act says MEGA must provide one of three written responses: an unconditional approval; a conditional approval; or a letter stating with specificity that the plan needs additions or changes before it can be evaluated. The bill would eliminate the third response and specifically allow MEGA the option of denying the work plan in a written response that included specific reasons for the denial. If a work plan was denied, it could be resubmitted.

- The act currently provides only three criteria for the MEGA to consider in reviewing a work plan: whether the individual activities in the work plan are sufficient to complete the eligible activity; whether each individual activity is required to complete activity; and whether the cost for each activity is reasonable. The bill would add a list of other criteria. These would be essentially the same criteria used by MEGA and the state treasurer in deciding whether to approve a brownfield tax credit: the overall benefit to the public; the extent of reuse of vacant buildings and redevelopment of blighted property; the creation of jobs; whether the property was in an area of high unemployment; the level and extent of contamination to be alleviated; the level of private sector contribution; the cost gap between the site and a similar greenfield site; in cases in which a developer or occupant was moving from another location in the state, whether the move would create a brownfield; the financial soundness of the project participants and the economic soundness of the project; other state

House Bill 4698 (5-23-01)

and local incentives available for the project; and any other criteria MEGA considered appropriate.

- Under the bill, MEGA could not approve more than 25 work plans per year that proposed to capture \$500,000 or more in school operating taxes over the entire duration of the work plan. MEGA could approve an unlimited number of work plans proposing to capture less than \$500,000 over the entire duration of the work plan.

- The bill also contains a provision that would permit a brownfield authority, for eligible activities conducted after September 30, 2000 and before the approval of a work plan, to use taxes levied for school operating purposes for those activities, if the work plan was approved before September 1, 2001.

[The infrastructure improvements that are eligible include a street, road, sidewalk, parking facility, pedestrian mall, alley, bridge, sewer, sewage treatment plant, property to reduce, eliminate, or reduce soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, or other similar related structure or improvement, together with necessary easements.]

MCL 125.2665

### **BACKGROUND INFORMATION:**

The original purpose of the state's brownfield programs was to provide funding and tax incentives for the cleanup and redevelopment of contaminated land, particularly land in urban areas, so that it could become economically viable (and competitive with undeveloped "greenfield" sites). The program was expanded in a number of ways through the enactment of Public Acts 143-146 of 2000, and in particular it was expanded to cover blighted and functionally obsolete property in 88 core communities around the state. For more information on that legislation, see the House Legislative Analysis Section's analysis of House Bills 4400, 5443, and 5444, and Senate Bill 269 dated 7-10-00.

### **FISCAL IMPLICATIONS:**

With regard to the bill as it was originally introduced, the House Fiscal Agency has reported that the bill would have no fiscal impact on state or local government. (5-4-01)

### **ARGUMENTS:**

#### ***For:***

The bill would address some problems that have arisen in the administration of the expanded brownfield development programs enacted last year. It provides the Michigan Economic Growth Authority (MEGA) an expanded set of criteria to use in evaluating work plans submitted by local brownfield authorities that are seeking the capture of school operating taxes. These criteria are essentially the same as the criteria used in evaluating applications for single business tax credits at brownfield sites. It also specifically allows MEGA to deny work plans (and thus deny the capture of school operating taxes). And it limits the number of large-scale projects that can be approved, without affecting smaller projects. (This has been described as creating a "bifurcated" approval process.) Under the bill, only 25 work plans that propose to capture half-a-million dollars or more of school operating taxes could be approved in any one year. An unlimited number of smaller work plans could be approved.

#### **POSITIONS:**

The Department of Treasury has indicated support for the bill. (5-21-01)

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.