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DDA BONDING VALIDATION

Senate Bill 917 (Substitute H-2)
First Analysis (12-7-94)

Sponsor: Sen. Frederick Dillingham
Senate Committee: Corporations and
Economic Development
House Committee: Local Government

THE APPARENT PROBLEM:

The downtown development authority act is one of a number of acts under which local units of government have been able to form special authorities to preserve or increase property values and to promote economic development. One way an authority can do this is through tax increment financing, whereby the growth in tax revenue in a designated area can be captured and used to pay for a variety of improvements to public facilities, such as sidewalks, lighting, parking, beautification efforts, and recreational facilities. Typically (but not always), the improvements are paid for through bond issues that are paid off from the tax revenue growth. The passage of Proposal A and the resulting creation of a new school finance system will hamper these authorities, which will no longer be able to capture school tax revenue. The legislation amending the various TIFA acts to conform to the new school financing system permits the capture of school taxes to cover obligations from certain existing and so-called pipeline projects. Bonds for the pipeline projects need to be issued by December 31, 1994, to qualify. A number of communities with pipeline projects they wish to fund have discovered, from consultations with bond counsel, that there are technical imperfections in the creation of their downtown development authorities. The act is said to be a complicated one to follow and sometimes errors are made that are not discovered until much later, such as the providing of 18 days notice of a public hearing rather than 20 days or creation of an authority by resolution instead of by ordinance or the failure to issue findings to substantiate the creation of the authority. Legislation has been proposed that would validate the issuing of bonds by a number of communities that otherwise might not be able to get bond counsel approval.

Also, the downtown development authority act specifies that an authority is to be supervised and controlled by a board consisting of the chief executive officer of the municipality and from 8 to 12 additional members. The act defines "chief executive officer" to refer to the mayor or city manager of a city, the president of a village, or the supervisor of a township. Legislation has been proposed to expand that definition, partly in recognition that townships and villages have managers who could serve on the authority board.

THE CONTENT OF THE BILL:

The bill would amend the downtown development authority act (MCL 125.1651 and 125.1653c) in two ways.

** The bill would validate the capture of tax increment revenues for certain projects for which bonds are issued after October 1, 1994. Specifically, the bill says that "the validity of the proceedings or findings establishing an authority, or of the procedure, adequacy of notice, or findings with respect to the approval of a development plan or tax increment financing plan is conclusive with respect to the capture of tax increment revenues for an other protected obligation that is a bond issued after October 1, 1994." (The term "other protected obligation" refers to certain so-called pipeline projects permitted to go forward under recent amendments to the act aimed at implementing the new state school tax collection and distribution system.)

** The bill would expand the definition of "chief executive officer" in the act to include a village manager, a township manager, or, if designated by a township board, a township superintendent.

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HOUSE COMMITTEE ACTION:

As passed by the Senate, the bill dealt only with the definition of "chief executive officer."

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bill would provide for the validation of bond issues by downtown development authorities in several communities (including, reportedly, St. Ignace, Gladstone, Dexter, Tittabawassee Township, and Benton Township). These bond issues fall under the category of pipeline projects that recent legislation permitted to go forward before the change is made that will prevent tax increment finance authorities from capturing school taxes. Without this legislation, bond counsel would be reluctant to approve the issuance of bonds.

For:

Amending the definition of "chief executive officer" to include village and township managers and township superintendents will bring the act up-to-date and give municipalities the option of assigning these administrators to the board overseeing downtown development authorities.

POSITIONS:

The Michigan Municipal League supports the bill.
(12-6-94)