House Bill 4504 (Substitute H-2)
First Analysis (3-24-93)

Sponsor: Rep. Philip E. Hoffman
Committee: Economic Development

THE APPARENT PROBLEM:

Assistance from the legislature is needed to permit two downtown development authorities to operate in cases where actions by local government have made their bond counsels uneasy. In each case, bond lawyers say, the spirit of the law was met but not the letter of the law. In one instance, Blackman Township had dissolved its downtown development authority when problems arose with a developer it had contracted with. Then when a new developer became interested in continuing the project, the township decided to reinstate the authority, but there are concerns about the validity of this, in part because of questions about whether conditions that needed to be satisfied to create a downtown authority in the first place (deterioration of property values) continue to exist due to inflationary property value increases. In another instance, reportedly, the Village of Dundee created its authority by resolution instead of by ordinance, although it otherwise followed the proper procedure, and has since amended its authority's plans by ordinance.

THE CONTENT OF THE BILL:

The bill would amend the downtown development authority act to do the following:

-- permit the reinstatement of a downtown development authority established before December 31, 1988, and dissolved before September 30, 1990; and

-- ratify and validate a development plan and tax increment financing plan approved by resolution instead of ordinance by the village council of a village with a population of less than 3,000 before June 15, 1988, provided that an amendment to the plans was adopted by the village council by ordinance.

In the first case, a municipality's resolution of intent would have to set a date for a public hearing on the adoption of the reinstatement ordinance.

The procedure for publishing the notice of hearing, holding the hearing, and adopting the reinstatement ordinance would be like that followed when the authority was first established.

The bill would specify that if the governing body had determined or could have determined when it originally established the authority that the necessary conditions existed to establish it or could have determined that the establishment of the authority would promote economic growth, then an authority reinstated under the bill could not be invalidated pursuant to a claim based on the grounds that, based on the standards that must be met to establish an authority, a governing body improperly determined that the necessary conditions existed for reinstatement. The reinstatement also could not be invalidated because the boundaries of the downtown district were altered at the time of reinstatement of the authority. (Note: The bill contains two separate sections dealing with these provisions in similar but not identical language.)

The validity of the proceedings, findings, and determinations reinstating the authority would be conclusive unless contested in a court of competent jurisdiction within 60 days after whichever of the following occurred last: the publication of the reinstatement ordinance as adopted; the filing of the ordinance with the secretary of state; or the effective date of the act created by this bill.

(The act allows the creation of an authority "when the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in its business district, to eliminate the causes of that deterioration, and to promote economic growth." These are the standards referred to earlier.)

MCL 125.1680

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:
The bill solves problems for two downtown development authorities in a manner that satisfies bond lawyers and officials from the Department of Commerce.

POSITIONS:

There are no positions at present.