



SENATE BILL No. 539

May 17, 1995, Introduced by Senators HONIGMAN and HART
and referred to the Committee on Local, Urban and State
Affairs.

A bill to provide for the authorization of municipalities of this state to create an empowerment zone development corporation or enterprise community development corporation; to facilitate the implementation of strategic plans relating to the designation and treatment of empowerment zones and enterprise communities; to stimulate the creation of new jobs for the disadvantaged and long-term unemployed; to promote revitalization of economically distressed areas; to prescribe the powers and duties of empowerment zone development corporations and enterprise community development corporations; to provide for the creation of neighborhood review panels; and to provide for the condemnation and transfer of public and private property to carry out the purposes of this act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "empowerment zone and enterprise community development corpora-
3 tion act".

4 Sec. 3. There exists in this state the continuing need for
5 programs to alleviate and prevent conditions of long-term unem-
6 ployment, economic distress, and accompanying social ills.

7 Accordingly, the legislature finds that in order to stimulate the
8 creation of new jobs and to promote the revitalization of dis-
9 tressed areas, it is necessary to empower municipalities to
10 create empowerment zone and enterprise community development cor-
11 porations to facilitate the implementation of municipalities'
12 strategic plans aimed toward those ends, and to ensure local
13 oversight of strategic plan implementation.

14 Sec. 5. As used in this act:

15 (a) "Board" means the board of directors of an empowerment
16 zone development corporation or an enterprise community develop-
17 ment corporation.

18 (b) "Chief executive officer" means the mayor or city man-
19 ager of a city, the president of a village, the supervisor of a
20 township, or the county executive of a county or, if a county
21 does not have a county executive, the chairperson of the county
22 board of commissioners.

23 (c) "Corporation" means an empowerment zone development cor-
24 poration or an enterprise community development corporation orga-
25 nized under this act.

1 (d) "Empowerment zone" means an area designated as an
2 empowerment zone by the United States department of housing and
3 urban development.

4 (e) "Empowerment zone coordinating council" means a
5 community-based partnership initiated by the chief executive
6 officer of a municipality with a population of 900,000 or more to
7 do all of the following:

8 (i) Develop a strategic plan in accordance with 24
9 C.F.R. 597.3.

10 (ii) Incorporate an empowerment zone development corporation
11 under this act on behalf of the municipality.

12 (iii) Recommend initial candidates for appointment to the
13 corporation's board of directors.

14 (f) "Enterprise community" means an area designated as an
15 enterprise community by the United States department of housing
16 and urban development or the United States department of
17 agriculture.

18 (g) "Governing body" means the body in which the legislative
19 powers of a municipality are vested.

20 (h) "Municipality" means a county, city, village, or
21 township.

22 (i) "Strategic plan" means a plan agreed to by this state
23 and a municipality concerning an empowerment zone or enterprise
24 community that includes both of the following:

25 (i) Certification of the authority to adopt a strategic plan
26 in an application for nomination as an empowerment zone or
27 enterprise community under applicable federal regulations.

1 (ii) A written commitment of this state and the municipality
2 to adhere to the plan.

3 (j) "Substantial interest" means 1 or more of the
4 following:

5 (i) Owning real property or a business located in the empow-
6 erment zone or enterprise community.

7 (ii) Having a substantial demonstrable interest in real
8 property or in a business located in the empowerment zone or
9 enterprise community.

10 (iii) Engaging in activities to improve the social and eco-
11 nomic conditions of the empowerment zone or enterprise
12 community.

13 (iv) Making a significant commitment to the empowerment zone
14 by providing financial or in-kind resources.

15 Sec. 7. (1) A written application may be made by not less
16 than 3 persons to the governing body of a municipality with a
17 population of less than 900,000 for permission to incorporate an
18 empowerment zone development corporation or an enterprise commu-
19 nity development corporation on behalf of the municipality. In a
20 municipality with a population of 900,000 or more, a majority of
21 an empowerment zone coordinating council shall designate not less
22 than 3 persons to apply. The application shall include proposed
23 articles of incorporation and proposed bylaws. The name of the
24 corporation shall be "the empowerment zone development corpora-
25 tion of _____" (the name of the incorporating
26 municipality) or "the enterprise community development

1 corporation of _____" (the name of the incorporating
2 municipality).

3 (2) The governing body of the municipality shall notify the
4 public of receipt of the application as provided in subsection
5 (3). The application may be approved after a public hearing by
6 adoption of a resolution by the governing body.

7 (3) Notice of the time and place of the hearing shall be
8 given by publication once in a newspaper of general circulation
9 designated by the municipality not less than 10 days before the
10 date set for the hearing. In addition, notice of the hearing
11 shall be posted not less than 10 days before the hearing in at
12 least 10 conspicuous and public places within the designated
13 empowerment zone or enterprise community.

14 (4) The process for approving the articles of incorporation
15 and the bylaws and for amending the articles or bylaws shall be
16 prescribed by an ordinance of the municipality.

17 Sec. 9. (1) If the governing body approves both the appli-
18 cation to incorporate the corporation and the articles of incor-
19 poration, the clerk of the municipality shall file the original
20 of the articles of incorporation with the department of commerce
21 and 1 copy in his or her office after certifying that the copy is
22 a true and accurate copy of the original articles of
23 incorporation.

24 (2) The corporation is incorporated at the time the articles
25 of incorporation are filed with the department of commerce. The
26 validity of the incorporation shall be conclusively presumed

1 unless challenged in a court of competent jurisdiction not more
2 than 60 days after the incorporation.

3 Sec. 11. A municipality shall not approve incorporation of
4 more than 1 corporation under this act.

5 Sec. 13. (1) The size and composition of the board shall be
6 determined by an ordinance of the municipality. In a municipal-
7 ity with a population of 900,000 or more, 60% of the board mem-
8 bers shall be residents of the empowerment zone or enterprise
9 community, and 40% of the board members shall not be residents
10 of, but shall have a substantial interest in, the empowerment
11 zone or enterprise community. An elected official or candidate
12 for elective office shall not serve as a board member.

13 (2) If the municipality's governing body approves, the chief
14 executive officer shall appoint the members of the board of
15 directors. A director may be removed for cause by the chief
16 executive officer as prescribed by an ordinance of the
17 municipality.

18 (3) The qualifications and mechanisms for the selection of
19 the members of the board of directors, the filling of vacancies,
20 and the number of members shall be prescribed by an ordinance of
21 the municipality. The board of directors and all committees
22 shall reflect the demographic diversity of the empowerment zone
23 or enterprise community.

24 (4) The board of directors shall establish an executive com-
25 mittee to manage the corporation. The size and manner of selec-
26 tion of the members of the executive committee and the number of
27 members shall be prescribed by ordinance of the municipality. In

1 a municipality with a population of 900,000 or more, 60% of the
2 executive committee shall be residents of the empowerment zone or
3 economic community and 40% shall not be residents of, but shall
4 have a substantial interest in, the empowerment zone or enter-
5 prise community. The executive committee shall reflect the demo-
6 graphic diversity of the empowerment zone or enterprise
7 community.

8 (5) The board of directors may establish neighborhood review
9 panels and necessary subcommittees to monitor the implementation
10 of programs detailed in the strategic plan. The size and manner
11 of selection of the members of the neighborhood review panels and
12 the number of members shall be prescribed by an ordinance of the
13 municipality. In addition, the neighborhood review panel shall
14 demographically reflect the empowerment zone or enterprise
15 community.

16 (6) The corporation shall employ an executive director and
17 other necessary staff.

18 Sec. 15. (1) The board of directors shall be appointed for
19 staggered terms as prescribed by an ordinance of the
20 municipality.

21 (2) A director whose term of office has expired shall con-
22 tinue to hold office until the chief executive officer appoints
23 the director's successor, with the approval of the municipality's
24 governing body.

25 (3) A director shall serve without compensation, but may be
26 reimbursed for the actual expenses incurred in the performance of
27 his or her official duties.

1 Sec. 17. A director who has either a direct or indirect
2 interest in a matter before the corporation shall disclose that
3 interest before the corporation takes action on the matter. This
4 disclosure shall be made a part of the record of the
5 corporation's official proceedings and the interested director
6 shall refrain from participation in the corporation relating to
7 the matter.

8 Sec. 19. The number of board members required to make a
9 quorum for the transaction of corporation business shall be pre-
10 scribed by an ordinance of the municipality.

11 Sec. 21. (1) The corporation has the powers and duties to
12 do all of the following:

13 (a) Coordinate, review, recommend prioritization of, moni-
14 tor, and evaluate the programs of the agencies implementing the
15 strategic plan to ensure the achievement of benchmarks and time-
16 tables as detailed in that strategic plan.

17 (b) Solicit and accept gifts, donations, in-kind services,
18 grants, loans, appropriations, or other money from a federal,
19 state, local, or private source for operating expenses.

20 (c) Acquire, hold, lease, or dispose of real or personal
21 property necessary or convenient to accomplish the purposes of
22 this act.

23 (d) Procure the director's bond and liability insurance that
24 are prescribed by an ordinance of the municipality.

25 (e) Submit to the chief executive officer and the governing
26 body of the municipality periodic progress, financial, and
27 performance reviews, and other reports considered necessary by

1 the chief executive officer and the governing body of the
2 municipality. These reports shall be made available to the
3 public by the municipality upon request.

4 (f) With the concurrence of the municipality by its govern-
5 ing body and chief executive officer, modify the strategic plan,
6 except as precluded by federal, state, or local law.

7 (g) Possess all other powers necessary and appropriate that
8 are not inconsistent with federal, state, or local law to coordi-
9 nate, review, recommend prioritization of, monitor, and evaluate
10 the programs of the agencies implementing the strategic plan as
11 detailed in that strategic plan.

12 (2) The municipality may assign by ordinance to the corpora-
13 tion additional powers and duties to the extent not prohibited by
14 state law.

15 Sec. 23. (1) A corporation that completes the duties enu-
16 merated in section 21(1)(a) shall be dissolved by the adoption of
17 a resolution by a majority of 2/3 of the members of the board of
18 directors. The resolution shall be approved by a majority of the
19 members of the governing body of the municipality. After
20 approval of the resolution, the clerk of the municipality shall
21 file a copy of the resolution with the department of commerce.

22 (2) Net assets of the corporation that are in excess of that
23 amount necessary to retire indebtedness or to complete the duties
24 enumerated in section 21(1)(a) shall inure to the benefit of the
25 municipality, and not to another person or entity. Upon dissolu-
26 tion of the corporation, title to all corporate real and personal
27 property vests in the municipality, and possession of all

1 corporate money transfers to the municipality to be used
2 exclusively for charitable or public purposes.

3 Sec. 25. The chief executive officer of the municipality
4 may impose sanctions upon the corporation based on periodic per-
5 formance reviews as prescribed by an ordinance of the municipal-
6 ity and with the approval of the governing body of the
7 municipality.

8 Sec. 27. In order to accomplish the purposes of this act, a
9 municipality may institute and prosecute proceedings under its
10 powers of eminent domain in accordance with state law or local
11 charter. The taking and transfer of public and private property
12 by the municipality for use in a project set forth in a strategic
13 plan may be on terms and conditions that the municipality consid-
14 ers appropriate and shall be considered necessary for the benefit
15 of the public.

16 Sec. 29. This act shall be liberally construed to effectu-
17 ate its purposes.

18 Sec. 31. The authority given by this act shall be in addi-
19 tion to and not in derogation of the power of a municipality
20 existing under statutory or charter provisions.