

NEIGHBORHOOD ENTERPRISE ZONE

House Bill 5211 as introduced First Analysis (11-4-97)

Sponsor: Rep. Kirk Profit
**Committee: Urban Policy and Economic
Development**

THE APPARENT PROBLEM:

The Neighborhood Enterprise Zone Act was enacted in 1992 as an effort to improve the housing stock in distressed or declining urban areas, where little or no new construction was taking place and much housing was in need of rehabilitation. To promote construction or rehabilitation of structures within certain designated zones, the act offers reduced property taxes to property owners. Generally, taxes on new construction are paid at a rate of one-half of the statewide average property tax rate for either homestead or non-homestead property, whichever applies, and taxes on rehabilitated housing are based on the value prior to the improvement. (The abatement applies to structures and not to the land.) An owner or developer who hopes to take advantage of the abatement under the act must obtain a neighborhood enterprise zone certificate through the approval of the local unit of government and the State Tax Commission. The application for such a certificate is required to be filed before a building permit for the new construction or rehabilitation has been issued (although there are exceptions). However, it is asserted that the form currently provided for applications requires that the applicant include certain items with the application that could not be acquired before a building permit had been obtained. Thus, by following the instructions on the application, an applicant essentially eliminates himself or herself from eligibility. Legislation has been introduced to alleviate this inequitable situation.

THE CONTENT OF THE BILL:

House Bill 5211 would amend the Neighborhood Enterprise Zone Act to eliminate the requirement that an application for a neighborhood enterprise zone certificate be filed before a building permit has been issued. The bill would also eliminate the exceptions to this requirement. The application would still be required; however, under the bill, an application could be made at any time, before or after the building permits had been issued, without requiring that the owner or developer meet an exception.

MCL 207.774

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The current application form supplied by the state tax commission for neighborhood enterprise zone certificates creates a "Catch 22" situation. The form requires a person seeking an abatement to include as attachments to the application, among other things, "proof of the date of commencement of construction, such as a building permit or statement by contractor" and "certification by the local building official, certifying that the building meets minimum building codes for the local unit" (which cannot be obtained prior to the completion of the construction). By complying with the application, a party automatically invalidates its application, because the statute requires that the application be filed prior to the issuance of a building permit. This is decidedly unfair and makes it impossible for those who follow the application to receive the abatement.

Against:

Removing the requirement that the application for zone certificate be filed before a building permit is obtained is not the best way to resolve the problem. If the problem stems from the language of the application form then it would make more sense to re-write the form. By eliminating the requirement that application for certification be made prior to issuance of a building permit, a person could conceivably apply for and receive an abatement for construction or rehabilitation that was performed before the act even existed. The abatement created in the act is intended to encourage construction or rehabilitation; thus the requirement that the permit application be made before a building permit is obtained. If a person has already obtained a building permit or has completed the work before seeking the abatement, then the abatement is not needed as encouragement.

Response:

Merely changing the form will not help those who have already been rejected because they followed the instructions on the form. Removing the restriction will

help those people by allowing them to re-file and, if otherwise eligible, receive the abatement. If some change other than removal of the filing restriction is made, it should include some form of mitigation for those who were rejected for having relied upon the form's provisions. Furthermore, the restriction is unfair to begin with -- the abatement should not be limited only to those who find out they are potentially eligible for this abatement before they begin construction or rehabilitation. The abatement should be awarded to anyone who attempts to rehabilitate and/or improve housing in these areas, not only those who would not have otherwise attempted to improve the area. Perhaps a better approach would be to require that the rehabilitation or construction have been undertaken after the zone was established.

POSITIONS:

The City of Detroit supports the bill. (10-30-97)

The Michigan Municipal League supports the bill. (10-31-97)

Analyst: W. Flory

■ 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.

