

BUSINESS IMPROVEMENT DISTRICTS

Senate Bill 484 as passed by the Senate First Analysis (5-20-99)

Sponsor: Sen. John J. H. Schwarz, M.D.
**Senate Committee: Economic
Development, International Trade and
Regulatory Affairs**
House Committee: Economic Development

THE APPARENT PROBLEM:

Reportedly, a group of automobile dealers whose operations are near to each other in the adjoining municipalities of Battle Creek and Springfield and officials of those cities would like to collaborate in a joint marketing program that would promote a sense of identity in the area and improve a strip of road in their communities. Their aim is to resist pressures to move automobile sales operations from a downtown area to sites nearer the interstate (as the automobile companies apparently would prefer). Legislation has been introduced that would enable the dealers to carry out their efforts under the umbrella of a new kind of business district, similar to the principal shopping area, which already exists in law. The principal shopping area concept, however, applies to one city only, and puts a \$10,000 per year limit on the amount of an assessment on any one business on a single parcel.

THE CONTENT OF THE BILL:

The bill would amend Public Act 120 of 1961, the shopping areas redevelopment act, to authorize cities to develop (or redevelop) "business improvement districts" in addition to their current ability under the act to develop or redevelop principal shopping districts. A "business improvement district" (or "BID") would be defined to mean one or more portions of a city or combination of contiguous portions of two or more cities that was predominantly commercial or industrial in use, and "district" would be redefined to mean either a business improvement district or a principal shopping district, which means that the act's current provisions regarding shopping districts also would apply to business improvement districts.

Business improvement districts. The bill would allow a city to create one or more business improvement

districts, and one or more cities to establish a business improvement district by resolution. The resolution would have to identify the geographic boundaries of the BID, the number of board members in that BID, the different classes of property owners in the BID, and the class of business or property owners, if any, who were projected to pay more than 50 percent of the special assessment levied that benefited property in that BID.

Board membership. The members of a business improvement district board would be determined by the city, as required by the bill. The board would have to include a representative of each city in which the business improvement district was located; other members of the board would have to be nominees of the business and property owners located within the district. The city representative would have to be appointed by the city's chief executive officer with the concurrence of the city's legislative body. If a class of business or property owners were projected to pay more than 50 percent of the special assessment levied in a business improvement district for the benefit of the district, the majority of the board members would have to be nominees from that class of business or property owners.

Financing. As currently is true of principal shopping districts, the cost of the whole (or any part of) a business improvement district could be financed by grants and gifts to the city, by city funds, by the issuance of general obligation bonds of the city, by the issuance of revenue bonds by the city under any applicable revenue bond act, or by the levying of special assessments against land or interests in land, or both. In addition, the bill would authorize financing the cost of a district by grants and gifts to the district and from any other source. Beginning January 1, 2000, the bill would require a bond, note, or other

obligation issued to finance a project authorized under the act meet the following criteria:

(1) The proceeds would have to be used for (a) capital expenditures, (b) the costs of a reserve fund securing the bonds, notes, or obligations, and (c) the costs of issuing the bonds, notes, or obligations. The bonds, notes, or obligations specifically could not be used for a district's operational expenses;

(2) The weighted average maturity of the bonds, notes, or other obligations could not exceed the useful life of the capital assets;

(3) The bonds, notes or other obligations could not, in whole or in part, appreciate in principal amount, or be sold at a discount of, more than 10 percent;

(4) If the bonds, notes, or other obligations were issued to refund bonds, notes, or other obligations that met the above three conditions, the net present value of the principal and interest to be paid on the refunding bonds, notes, or other obligations, excluding the cost of issuance, would have to be less than the net present value of the principal and interest to be paid on the bonds, notes, or other obligations being refunded, as calculated using a method approved by the Department of Treasury.

Special assessments. Before a city levied a special assessment under the bill that benefitted property within a business improvement district, the BID board would have to develop a marketing and development plan that detailed both (1) the scope, nature, and duration of the business improvement district project or projects, and (2) the different classes of property owners who would be assessed and the projected amount of the special assessment on the different classes. A city that levied a special assessment under the bill that benefitted property in a BID would be considered to have approved the marketing and development plan developed by the BID board.

Powers Under the Act. The act currently permits cities with a principal shopping district, and the bill would permit cities with a business improvement district, to do the following:

-- improve highways and construct and maintain pedestrian walkways;

-- prohibit or regulate vehicular traffic and regulate or prohibit vehicular parking;

-- acquire, own, maintain, or operate off-street parking lots or structures (and the bill would expand this to include the authority to demolish, develop, and improve properties) and contract with others for the operation and maintenance of parking lots;

-- construct, maintain, and operate malls with bus stops, information centers, and other buildings serving the public interest;

-- acquire by purchase, gift, or condemnation, and own, maintain, or operate real or personal property;

-- promote economic activity through market research and public relations campaigns; and

- provide for the maintenance, security, and operation of the district (and the bill would permit contracting with other public or private entities to carry out those duties).

MCL 125.981 et al.

BACKGROUND INFORMATION:

According to one definition, a business improvement district (BID) is an organizing and financing mechanism based on state and local law which permits property owners and merchants to band together to use the city's tax collection powers to tax themselves. These funds are collected by the city and returned to the BID to be used to buy supplemental services beyond those services already provided by the city.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency reports that the bill would have no fiscal impact on state government. Information on the size of districts to be created under the bill, and the type and number of businesses, are not available to determine local fiscal impact. The SFA notes that special assessments would be levied only on businesses in the business improvement districts according to the benefits each business received. (4-28-99)

ARGUMENTS:

For:

The bill, according to its supporters, would help downtown automobile dealers in Battle Creek and Springfield engage in marketing efforts and highway improvements that would help them resist pressures to

move from the downtown to the interstate. Retaining such businesses would be economically beneficial to the downtown areas. The bill would allow for the creation of a new kind of district, called a business improvement district, similar in concept to the principal shopping district that a city can currently create. A city or two or more cities with contiguous portions could combine through resolutions to create the business improvement district, which would have very similar responsibilities and powers as those currently afforded to a principal shopping district. For example, the cities could levy special assessments in the district. However, the current assessment limitation for new principal shopping districts would not apply to the business improvement district. The cities involved would appoint a board to manage the district, with representation from the cities and from the businesses and property owners within the district. If a class of business or property owners (e.g. auto dealers) is projected to pay more than 50 percent of any special assessment levied, then a majority of district board members would be nominees of that class of owners. Supporters say that in the case of Battle Creek and Springfield, automobile dealers will be the class of businesses primarily benefitted and will pay the vast majority of assessments. (Of course, other communities could make use of the districts in other ways.)

Against:

Some people believe that districts of this kind are simply a way of raising taxes on business to carry out governmental functions. This can result in the assessment of businesses caught in a special district but without any direct benefits. Also, some people object to allowing such districts powers of condemnation; a district controlled by a group of businesses should not be able to take the property of their neighbors.

POSITIONS:

The Cereal City Development Corporation has indicated support for the bill. (5-18-99)

The Michigan Municipal League has indicated support for the bill. (5-18-99)

Analyst: C. Couch/S. Ekstrom

■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.