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Senate Bill 271 (as enrolled)

PUBLIC ACT 455 of 2000

Sponsor: Senator Bill Schuette

Senate Committee: Economic Development, International Trade and Regulatory Affairs

House Committee: Economic Development

Date Completed: 1-31-01

RATIONALE

Legislation enacted in 1996 allows the creation of brownfield redevelopment authorities, provides for the redevelopment of contaminated industrial sites, establishes sources of funding for authority activities, and allows a single business tax credit for eligible investments in brownfield redevelopment zones. More recently, Public Acts 143 through 146 of 2000 expanded the brownfield development program and enacted new provisions related to State and local economic development efforts. In the context of these amendments, it was suggested that a public officer or public employee should be allowed to serve as a member of the board of a brownfield redevelopment authority. State law, however, prohibits a public officer or public employee from holding "2 or more incompatible offices at the same time". This precludes situations in which one office would supervise the other, for example. The law also makes various exceptions to this restriction, including those that allow public officers and employees to serve on the board of a tax increment finance authority, downtown development authority, or local development finance authority. It was suggested that another exception should be made for the board of a brownfield redevelopment authority.

CONTENT

The bill amended Public Act 566 of 1978, which prohibits the holding of incompatible public offices, to permit a public officer or public employee of a city, village, township, school district, community college district, or county to serve as a member of the board of a brownfield redevelopment authority.

Under the Act, except as otherwise provided, a public officer or public employee may not hold two or more incompatible offices at the same time. The bill specifies that this does not prohibit a public officer or public employee from serving on the board of a brownfield redevelopment authority.

(The Act defines "incompatible offices" as "public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office."

MCL 15.183

BACKGROUND

Under Section 5 of the Brownfield Redevelopment Financing Act (MCL 125.2655), each brownfield redevelopment authority must be supervised and controlled by a board chosen by the governing body of the municipality that created the authority. The governing body may designate one of the following to constitute the board:

- The board of directors of the economic development corporation of the municipality.
- The trustees of the board of a downtown development authority (DDA), tax increment financing authority (TIFA), or local development financing authority (LDFA).
- Not fewer than five or more than nine persons appointed by the chief executive officer of the municipality subject to the approval of the governing body.

In a municipality in which a DDA, TIFA, or LDFA board has been established, the governing body of the municipality must designate the trustees of one of those boards to constitute the brownfield authority

board. This provision applies only if a DDA, TIFA, or LDFA board is authorized to serve as the board of the brownfield authority.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill simply makes an additional exception to the general rule that public officers and employees may not serve on city, village, township, county, or school district boards if the positions are incompatible. Public Act 566 already allowed public officials to serve on the board of a downtown development authority, tax increment finance authority, or local development financing authority. Under the Brownfield Redevelopment Financing Act, it is highly possible that one of those boards will constitute a brownfield authority board. In fact, if a DDA, TIFA, or LDFA board exists in the municipality creating the authority and is authorized to serve as an authority board, the trustees of the DDA, TIFA, or LDFA board must be designated as the authority board. Thus, if the DDA, TIFA, or LDFA board already includes a public employee or officer, the bill legitimizes that person's membership on the authority board. In other cases, the bill permits a public employee or officer to be appointed directly to an authority board.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: D. Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.