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BILL ANALYSIS

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Senate Bills 970 and 972 (as enacted)
Sponsor: Senator Jason E. Allen (S.B. 970)
Senator Tupac A. Hunter (S.B. 972)
Senate Committee: Commerce and Tourism
House Committee: Commerce

PUBLIC ACTS 225 & 226 of 2008

Date Completed: 1-9-09

CONTENT

The bills amended the downtown development authority (DDA) Act to do all of the following:

- **Allow the board of a DDA to create, operate, and fund retail business incubators.**
- **Require a DDA board to give preference to tenants who provide goods or services that are unavailable or underserved in the downtown area, if it is the board's express determination to create, operate, or fund a retail business incubator.**
- **Require a DDA board and each tenant who leases space in a retail business incubator to enter into a contract that contains specified provisions, including the terms of a joint operating plan with another business in the downtown district.**
- **Include a building used as a retail business incubator in the definition of "public facility".**
- **Allow a DDA board to create, operate, and fund a loan program to fund improvements for existing buildings.**

duties of DDA boards. An authority may finance its activities by various methods, including tax increment financing (which "captures" tax revenue on the incremental increase in property values in the district).

A DDA board may plan and propose the construction, renovation, or rehabilitation of a public facility that may aid in the economic growth of the downtown district. The definition of "public facility" includes such items as a street, plaza, park, recreational facility, and structure dedicated to the public use or used by a public agency.

Under the bill, "public facility" also includes the acquisition, construction, improvement, and operation of a building owned or leased by the DDA to be used as a retail business incubator.

Senate Bill 972**Retail Business Incubator**

The bill authorizes a DDA board to create, operate, and fund retail business incubators in the downtown district. If it is the board's express determination to do so, it must give preference to tenants who will provide goods or services that are not available or that are underserved in the downtown area.

The board and each tenant who leases space in a retail business incubator must enter into a written contract that includes at least all of the following:

The bills took effect on July 17, 2008.

Senate Bill 970

The Act allows municipalities (cities, villages, and townships) to form DDAs in order to fund improvements to their business districts, and provides for the powers and

- The lease or rental rate, which may be below the fair market rate, as determined by the board.
- A provision that the tenant may lease space in the retail business incubator for not more than 18 months.
- The terms of a joint operating plan with one or more other businesses located in the downtown district.
- A copy of the tenant's business plan that contains measurable goals and objectives.

The contract also must require the tenant to participate in basic management classes, business seminars, or other business education programs offered by the DDA, the local chamber of commerce, local community colleges, or institutions of higher education, as determined by the board.

Loan Program

Under the bill, a DDA board may create, operate, and fund a loan program to fund improvements for existing buildings located in a downtown district, in order to make them marketable for sale or lease. The board may make loans with interest at a market rate or at a below-market rate, as the board determines.

MCL 125.1651 (S.B. 970)
125.1657 (S.B. 972)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills will have no impact on State revenue or expenditure. The bills redirect any increase in property tax revenue (captured taxes) from local units to an authority, if the DDA engages in tax increment financing. The amount of any such redirection is unknown and will depend upon the specific characteristics of any additional activities undertaken as a result of the bill.

Expanding the definition of "public facility" will increase taxes captured by authorities only to the extent that the changes represent additional expenditures an authority makes. To the extent that an authority chooses to make expenditures on public facilities rather than on some other eligible expense, the change will have no fiscal impact.

The bills do not define "retail business incubator" and the term is not defined elsewhere in the DDA Act. An existing statutory definition of "business incubator" does not appear to be immediately applicable, because the definition requires the business to be located in a certified technology park—an area where retail businesses are unlikely to be located.

Senate Bill 972 will have an additional indeterminate impact on local units. Authorities currently may acquire property, make improvements to property, and sell or lease property. The bill allows an authority to make loans to accomplish some of these actions, and these loans may be made at a below-market rate of interest. If a local unit can lend money to an entity to make the improvements for less than the cost of the DDA's directly making the improvements, the authority's expenditures will be reduced and the authority will require less captured tax revenue as well as receive interest on the funds. To the extent that the below-market rate of interest is less than the cost of capital for the DDA, the bill will increase the authority's costs.

Fiscal Analyst: David 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.