



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 975 and 976 (as enacted)
Sponsor: Senator Roger Kahn, M.D. (S.B. 975)
Senator Jud Gilbert, II (S.B. 976)
Senate Committee: Commerce and Tourism
House Committee: Commerce

PUBLIC ACTS 204 & 228 of 2008

Date Completed: 3-25-09

RATIONALE

The Neighborhood Enterprise Zone (NEZ) Act allows the governing body of a local governmental unit to designate one or more neighborhood enterprise zones, within which the owner of a homestead facility, the owner or developer of a proposed new facility, or an owner or developer wishing to rehabilitate property may receive an NEZ certificate. A certificate exempts new or rehabilitated housing from the property tax and subjects it, instead, to a specific NEZ tax. By providing this tax break, the Act seeks to reinvigorate residential areas in certain communities. The Act, however, generally does not apply to new apartment facilities, and it establishes a minimum size for a NEZ of 10 platted parcels. It was suggested that these restrictions prevented the use of the Act in downtowns and other commercial areas. Some people believe that the Act should allow a NEZ to be smaller than 10 parcels if the area contains at least 10 facilities, and should apply to new, mixed-use buildings in commercial areas that contain apartments and street-level retail operations.

-- **Include in the definition of "new facility" a new structure or a portion of a new structure that is rented or leased or is available for rent or lease, is a mixed use building or located in a mixed use building that contains retail business space on the street level floor, and is located in a qualified downtown revitalization district.**

Senate Bill 975 took effect on July 11, 2008.
Senate Bill 976 took effect on July 17, 2008.

Senate Bill 976 defines "qualified downtown revitalization district" as an area located within the boundaries of one or more of the following:

- A downtown district, as defined in the downtown development authority (DDA) Act.
- A principal shopping district or a business improvement district as defined in the principal shopping district Act.
- An area of the local unit zoned and primarily used for business, as determined by the local governmental unit.

CONTENT

Senate Bills 975 and 976 amended the Neighborhood Enterprise Zone Act to do the following:

- **Allow a neighborhood enterprise zone located in a "qualified downtown revitalization district" to contain fewer than 10 platted parcels if the platted parcels together contain 10 or more facilities.**

(Under the DDA Act, "downtown district" means that part of an area in a business district that is specifically designated by ordinance of the governing body of the municipality pursuant to the Act. A downtown district may include one or more separate and distinct geographic areas in a business district as determined by the municipality if the municipality enters into an agreement with a qualified township

under Act or if the municipality is a city that surrounds another city and that other city lies between the two separate and distinct geographic areas.

Under the principal shopping district Act, "principal shopping district" means a portion of a local governmental unit designated by the governing body of the local unit that is predominantly commercial and that contains at least 10 retail businesses. "Business improvement district" means one or more portions of a local governmental unit or combination of contiguous portions of two or more local governmental units that are predominantly commercial or industrial in use.)

Senate Bill 975

Under the NEZ Act, a neighborhood enterprise zone generally must contain at least 10 platted parcels of land and all the land within a zone must be compact and contiguous. Under the bill, a NEZ located in a qualified downtown revitalization district may contain fewer than 10 platted parcels if the parcels together contain 10 or more facilities.

In addition, the bill deleted a requirement that the clerk of a local governmental unit notify the State Tax Commission upon passage, amendment, or repeal of a resolution.

The bill also specifies that a resolution designating a NEZ in an obsolete property rehabilitation district that was created by a local unit on June 6, 2003, and for which the Commission issued obsolete property rehabilitation certificates on August 26, 2003, and September 24, 2003, causes any previous certificate to expire on the December 30 immediately preceding the December 31 on which the first NEZ certificate is effective. The taxable value of the parcel must be calculated using the value of the parcel before the building permit was issued. This provision authorizes an amended obsolete property rehabilitation certificate approved by the Commission for the portion of the parcel contained in the original certificate for which an application for a NEZ certificate was not submitted.

Senate Bill 976

The NEZ Act defines "new facility" as a new structure or a portion of a new structure that has as its primary purpose residential housing consisting of one or two units, one of which is or will be occupied by an owner as his or her principal residence. It includes a model home or a model condominium unit. "New facility" also includes a new individual condominium unit, in a structure with one or more condominium units that has as its primary purpose residential housing and that is or will be occupied by an owner as his or her principal residence. Previously, new facility did not include apartments.

Under the bill, "new facility" does not include apartments except for a new structure or a portion of a new structure that is all of the following:

- Rented or leased or available for rent or lease.
- A mixed use building or located in a mixed use building that contains retail business space on the street level floor.
- Located in a qualified downtown revitalization district.

Under the Act, "homestead facility" means an existing structure, purchased by or transferred to an owner after December 31, 1996, that has as its primary purpose residential housing consisting of one or two units, one of which is occupied by an owner as his or her principal residence and that is located within a subdivision platted pursuant to State law before January 1, 1968. The bill excludes from that definition an existing structure for which a certificate will be or has been issued after December 31, 2006, in a city with a population of 750,000 or more (i.e., Detroit), that is located within a subdivision platted pursuant to State law before January 1, 1968.

MCL 207.773 (S.B. 975)
207.772 (S.B. 976)

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 NEZ Act was enacted in 1992 to authorize municipalities to reduce the tax burden on new residential construction and rehabilitation of existing housing stock in certain distressed urban areas. The aim was to provide an incentive to developers and homeowners to stimulate housing improvements in established residential areas that were fighting urban blight. The Act originally applied to residential neighborhoods, not to downtowns or other commercial areas, and mixed-use and rental property were generally excluded from eligibility for a NEZ certificate. Today, however, many people are seeking the vitality of urban living that comes with proximity to downtowns and other commercial districts, and would like to have commercial and retail property included in the same buildings as rental units. The bills promote such developments by making them eligible for tax breaks under the NEZ Act.

In Chapter 4 (Principles and Recommendations for Urban Revitalization) of "Michigan's Land, Michigan's Future", the final report of the Michigan Land Use Leadership Council (August 2003), the Council highlighted the importance of policies and practices that recognize the desirability of compact, mixed-use, livable urban cores and neighborhoods; the essential contribution of vibrant downtowns, including stable residential populations, to economic health; and the value of encouraging retail businesses to stay or locate within urban communities.

The report pointed out that "the lack of viable central city areas in Michigan places our state at a distinct competitive disadvantage" in drawing the types of young, educated workers who seek urban living. According to the report, "Reestablishing the viability of Michigan's cities will require innovative public policies and programs that encourage private reinvestment in older urban areas...Making state redevelopment assistance and incentives available is crucial to managing growth and making our cities more attractive places to live and work."

By allowing smaller, more compact neighborhood enterprise zones in downtowns or other commercial areas, Senate Bill 975 provides an incentive for the

development or rehabilitation of residential units in urban areas, not just in more traditional neighborhoods. By including mixed-use developments that include apartments and street-level retail business in downtowns and other commercial districts within the NEZ Act's definition of "new facility", Senate Bill 976 will help foster the development of the type of settings for viable urban living recommended by the Land Use Council. Together, these bills will help to make Michigan's urban centers more attractive locations for business development and more appealing areas for educated professionals and others to live and work. In turn, this will enhance the vitality and economic viability of the State's urban centers, and help to make Michigan more competitive in diverse economic conditions.

Opposing Argument

The NEZ Act was designed to reinvigorate neighborhoods in distressed communities. It should apply strictly to owner-occupied property in residential areas, and not extend to retail ventures in commercial districts that may benefit from other established programs.

Response: The urban living movement that is becoming popular in Michigan cities and around the country relies on mixed-use developments, so urban residents have the benefit of retail and other commercial services located nearby. It is appropriate to extend eligibility for a tax break under the Act to these types of combined residential and commercial developments.

Opposing Argument

The Act allows certain cities, townships, and villages to establish neighborhood enterprise zones, but the tax breaks offered on property in those zones also affect counties' tax revenue. Counties have no input into the establishment of a NEZ, and cannot choose to opt out in order to levy the full tax amount due them. In effect, when a city, township, or village establishes a NEZ, other jurisdictions and other elected officials make decisions regarding counties' revenue. Extending NEZ eligibility to more types of property will exacerbate this problem. The Act should allow counties to opt in or opt out of a NEZ designation for purposes of tax revenue owed to the county.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills will reduce State and local property tax revenue by an unknown amount, depending upon the specific characteristics of the property affected by the bills. The bills expand the conditions under which a zone may be created, and the types of property that may be included in a zone. The bills also will increase State School Aid Fund expenditures by an unknown amount because any reduction in local school operating taxes will be offset by higher expenditures in order to maintain per-pupil funding guarantees. Neighborhood enterprise zones were expected to reduce property taxes on affected property by \$12.7 million in fiscal year 2007-08. During 2007, 13 cities participated in the program, although additional communities were eligible.

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.