Legislative Analysis

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COMMUNITY REVITALIZATION PROGRAM

Senate Bill 566 (S-2)
Sponsor: Sen. John Pappageorge

Senate Bill 567 (H-1)
Sponsor: Sen. Mike Kowall

Senate Bill 568 (H-1)
Sponsor: Sen. Goeff Hansen

Senate Bill 644 (S-2)
Sponsor: Sen. Tonya Schuitmaker

House Committee: Commerce
Senate Committee: Economic Development

Complete to 11-7-11

A SUMMARY OF SENATE BILLS 566-568 AND SENATE BILL 644 AS REPORTED FROM HOUSE COMMITTEE

The bills, taken together, would create a new Community Revitalization Program to provide incentives for certain investments in the state through grants, loans, and other economic assistance. This new program would be created within the Michigan Strategic Fund. The program has been characterized, in part, as a replacement for brownfield and historic preservation tax credits, which will no longer be available when recent changes to income and business taxes take effect on January 1, 2012. Senate Bills 566-568 amend the Michigan Strategic Fund Act, and the bills are tie-barred to one another, meaning none can take effect unless all are enacted. Senate Bill 644 amends the Michigan Trust Fund Act to include the Michigan Community Revitalization Program as a permissible use of the 21st Century Jobs Trust Fund.

Senate Bill 567 (S-2) would:

- Require the Michigan Strategic Fund (MSF) to create and operate the Michigan Community Revitalization Program, which would provide community revitalization incentives in the form of grants, loans, and other economic assistance, for eligible investments on eligible property in Michigan. (These grants and loans could be assigned by the recipients to other parties.)

- The term "eligible investment" would be defined as one or more of the following: (1) any demolition, construction, alteration, rehabilitation, or improvement of buildings; (2) site improvements; (3) the addition of machinery, equipment, or fixtures to the approved project; (4) architectural, engineering, surveying, and similar professional fees, but not certain "soft" costs of the eligible investment as determined by the MSF Board, including developer fees, appraisals, performance bonds, closing costs, bank fees, loan fees, risk contingencies, financing costs, permanent or construction period interest, legal expenses, leasing or sales commissions, marketing costs, professional fees, shared savings, taxes, title insurance, bank inspection fees, insurance, and project management fees.

- The term "eligible property" refers, generally speaking, to "a facility," meaning a polluted property under the Natural Resources and Environmental Protection Act; a historic resource; blighted property; functionally obsolete property; and parcels that are adjacent to or contiguous to the previously mentioned categories of properties. Incentives could not be approved for any property that was not eligible property.

- Require funds appropriated for the program to be placed in the 21st Century Jobs Trust Fund.

- Specify criteria for the MSF to consider when evaluating an application for incentives. Specifically, the Fund must apply the following criteria:

  -- The importance of the project to the community in which it is located.
  -- If the project will act as a catalyst for additional revitalization of the community.
  -- The amount of local community and financial support for the project.
  -- The applicant's financial need for a community revitalization incentive.
  -- The extent of reuse of vacant buildings, reuse of historical buildings, and redevelopment of blighted property.
  -- The creation of jobs.
  -- The level of private sector and other contributions, including federal funds and federal tax credits.
  -- Whether the project is financially and economically sound.
  -- Whether the project increases the density of the area.
  -- Whether the project promotes mixed-use development and workable communities.
  -- Whether the project converts abandoned public buildings to private use.
  -- Whether the project promotes sustainable development.
  -- Whether the project involves the rehabilitation of a historic resource.
  -- Whether the project addresses area redevelopment.
  -- Whether the project addresses areawide redevelopment.
  --Whether the project addresses underserved markets of commerce.
  -- The level and extent of environmental contamination.
  -- If the rehabilitation of a historic resource will meet the federal Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings.
  -- Any other additional criteria approved by the MSF Board specific to each project and consistent with the findings and intent of the MSF Act.

- Limit the amount of incentives available to an individual project to 25% of a project's eligible investment, up to $10 million for a single project. A loan could not exceed $10 million and a grant could not exceed $1 million. A combination of loan and grant could not exceed $10 million per project.

- Limit the MSF board so that it could only approve $10 million per project in community revitalization incentives for three projects per fiscal year. Also, the board must approve at least five projects of $1 million or less per project per fiscal year. However, this would not apply if fewer than five such projects warrant an award.

- Specify that incentives for functionally obsolete property could not exceed 25 percent of the eligible investment on single project, not to exceed $3 million.

- Prohibit community revitalization incentives from being used as working capital for an eligible investment.

- Require the MSF board to enter into a written agreement with an approved applicant for community revitalization incentives, and specify agreement requirements. A written agreement would have to provide for repayment and penalties if the applicant failed to comply with the agreement.

- Prohibit the use of more than 4% of the annual appropriation from the 21st Century Jobs Trust Fund for administration of the Michigan Community Revitalization Program. Further, no more than 3% could be used for administering these programs unless the Fund Board by a two-thirds vote authorizes the additional 1%.

- Allow the Michigan Economic Development Corporation to charge actual and reasonable fees for costs associated with a community revitalization loan, and specify that these fees are in addition to an amount of the appropriation used to administer the program.

- Specify legislative findings and intent. The bill says that:

  The Legislature finds and declares that any activity . . . to promote community revitalization will accelerate private investment as a vital, job-generating state, foster development of functioning obsolete properties, reduce blight, support the rehabilitation of historic resources, and protect the natural resources of this state and is a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the Legislature that the economic benefits resulting from this chapter occur substantially within this state.

Senate Bill 568 (S-2) would specify procedures for the application for, approval of, and payment of community revitalization grants and loans, and allow grant and loan proceeds to be assigned; require the MSF board to submit an annual report to each house of the Legislature; and require the posting of certain information on the MSF website.

The report to the Legislature would have to be presented to a joint committee of the House Commerce Committee and the House Appropriations Subcommittee on General Government. It would have to describe the activities of the Fund regarding community revitalization that occurred in the previous fiscal year, including the total proposed amount of private investment attracted; the total actual amount of private investment attracted; the total number of new agreements; the amount of incentives awarded, separately for each project; the actual amount of incentives made, for each project; the total actual amount of square footage revitalized or added for each project; the aggregate increase in taxable value of property subject to a written agreement; an evaluation of aggregate return on investment; the total number of residential units revitalized or added for each project approved; the identify of persons who received an incentive outside of program standards and guidelines and why the variance was given; and the amount of administrative costs use to administer the program.

The website posting provision would require that at least every three months the Fund post on its internet website the name and location of a person who received approval of a community revitalization investment in the previous three months.

Senate Bill 566 (S-2) would specifically make "revitalizing Michigan communities" one of the purposes of the Jobs for Michigan Investment Fund; and allow the MSF president to authorize community revitalization incentives, and incentives under the Michigan Business Development Program (proposed by Senate Bill 556), of up to $1.0 million.

Senate Bill 644 would amend the Michigan Trust Fund Act to include the Michigan Community Revitalization Program as a permissible use of the 21st Century Jobs Trust Fund.

FISCAL IMPACT:

Senate Bills 566, 567, and 568 create the Community Revitalization Program, which would provide grants, loans, and other economic assistance for community revitalization investments and projects. The Community Revitalization Program would effectively replace the brownfield and historic preservation tax credit programs, which will be eliminated December 31, 2011. The Community Revitalization Program would continue the state's support for brownfield and historic preservation incentive programs in local communities throughout the state, albeit through loans and grants. Guidelines for the Community Revitalization Program were approved by the Michigan Strategic Fund (MSF) Board at their August meeting.[1]

The FY 2011-12 MSF budget included $100.0 million dedicated for Business Attraction and Economic Gardening. Of this amount, $50.0 million was appropriated in a line-item (fund sourced from $25.0 million GF/GP and $25.0 million from the 21st Century Jobs Trust Fund) and $50.0 million GF/GP was appropriated through a boilerplate appropriation, Section 1201, as "one-time" funding. By and large, these funds were intended to replace brownfield, historic preservation, and Michigan Economic Growth Authority (MEGA) tax incentives.[2]

The bills would require all funds appropriated for Community Revitalization Incentives to be placed in the 21st Century Jobs Trust Fund, thereby giving the MSF board the authority to allocate $100.0 million between the Community Revitalization, Michigan Business Development Programs and potentially other authorized uses. All interest earnings on the 21st Century Jobs Trust Fund would remain in the General Fund (See MCL 12.257). While the MSF board would have authority to determine how these funds are allocated between the programs, Section 1024 of the FY 2011-12 General Government budget requires that at least $20.0 million be appropriated for brownfield and historic preservation incentives. Furthermore, the MSF board allocation authority is subject to statutory constraints in the MSF Act and Michigan Trust Fund Act.[3] Individual projects approved for loans or grant funding would be limited as is noted above in the summary of the bill.

Under the requirements of the bills, the MSF would realize increased costs associated with administering the Community Revitalization Program. To offset those costs, the bills provide that up to 4% of the annual appropriation for the Community Revitalization Program may be

[1] See http://www.michiganadvantage.org/cm/files/Michigan-Community-Revitalization-Program-Guidelines.pdf
[2] MEGA tax incentives are scheduled to be replaced with the Michigan Business Development Program (Senate Bill 556).
[3] Senate Bill 644 would allow the Community Revitalization Program to be an authorized use of the 21st Century Jobs Trust Fund.

used for administrative expenses. However, only 3% may be used unless the board approves the additional 1% by a two-thirds vote.

Repayments of loans provided under the Community Revitalization Program would be deposited in the Jobs for Michigan Investment Fund. The repayment funds would be restricted to further Community Revitalization Program incentives. It should be noted that the common cash earnings of the Jobs for Michigan Investment Fund are available for appropriation by the legislature. To the extent that repayments increase the balance of the fund, common cash earnings would increase correspondingly.

As noted earlier, Senate Bill 644, would amend the Michigan Trust Fund Act to include the Michigan Community Revitalization Program as a permissible use of the 21st Century Jobs Trust Fund.

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