

Legislative Analysis



DDA AMENDMENTS: TAX EXEMPTION

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House Bill 5463 (Substitute H-1)

Sponsor: Rep. John Walsh

Committee: Tax Policy

Complete to 5-21-12

A SUMMARY OF HOUSE BILL 5463 AS REPORTED FROM COMMITTEE

The bill would amend the Downtown Development Authority Act in the following ways:

****** The bill would specify that a downtown development authority is exempt from all taxation on its earning or property, beginning January 1, 2010. Further, instruments of conveyance [of property] from an authority would be exempt from local and state real estate transfer taxes.

****** The bill also would specify that the rules of procedure or bylaws of an authority may provide that a person be appointed to the board in his or her capacity as a public official, whether appointed or elected. The rules of procedure or bylaws could also provide that the public official's term is to expire upon expiration of service as a public official. In addition, the public official's membership on the board expires on resignation from office as a public official.

Under the act, a downtown development authority is under the supervision and control of a board consisting of the chief executive officer of the municipality creating the DDA and between 8 and 12 other members, as determined by the local unit's governing body. Board members are appointed by the chief executive officer subject to approval by the local governing body. A majority of members must be individuals with an interest in property located in the district or representatives of legal entities with an interest in property.

[A downtown development authority is a type of tax increment finance authority available to a city, village, or township. Typically, a DDA captures the growth in tax revenue within a designated development area for use in financing a variety of public improvements in the area, as well as for such activities as property acquisition, marketing, and operations. The act says a municipality can create a DDA by resolution in order "to halt property value deterioration and increase property tax valuation where possible in its business district, to halt the causes of that deterioration, and to promote economic growth." DDAs often issue bonds to carry out their functions and use the captured tax revenue to pay the bonds.]

MCL 125.1654

BACKGROUND INFORMATION:

The tax exemption language in the bill is intended to mirror tax exemptions that already appear elsewhere in statute, according to committee testimony on similar legislation (House Bill 4678).

At MCL 207.55, there is an exemption from the local property transfer tax for instruments where the grantor is the state or any political subdivision or municipality of the state. A similar exemption exists from the State Real Estate Transfer Tax at MCL 207.523.

At MCL 211.7m, the General Property Tax Act, general speaking, exempts property owned by or being acquired by a county, township, city, village, or school district used for public purposes and property owned or being acquired by an agency, authority, instrumentality, nonprofit corporation, commission, or other separate legal entity composed solely of, or which is wholly owned by, or whose members consist solely of a political subdivision, a combination of political subdivisions, or a combination of political subdivisions and the state, and is used to carry out a public purpose. (Emphasis added.)

According to the Michigan Municipal League, assessors and economic development professionals typically consider DDA property to be tax exempt, and rely on a Michigan Supreme Court case, City of Mt. Pleasant v. State Tax Commission, which said that property used for "economic development purposes" is being used for "public purposes" and is exempt under the GPTA.

However, as committee testimony on similar legislation revealed, the issue of exempt taxes for a DDA is currently before the state's Tax Tribunal in cases involving the Detroit Downtown Development Authority and the City of Detroit (Docket numbers 0392643 through 0392655). Testimony indicated the bill is aimed at that dispute.

FISCAL IMPACT:

The bill would have no state fiscal impact because municipalities and political subdivisions are exempt under the State Real Estate Transfer Tax Act when acting as grantors, as noted above. Reportedly, the dispute over whether a DDA is subject to property taxes is restricted only to a case involving the City of Detroit and its DDA, so any local fiscal impact would be small.

POSITIONS:

The City of Detroit indicated support for the bill. (5-16-12)

The Michigan Municipal League indicated support for the bill. (5-16-12)

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