

Legislative Analysis



NEXT MICHIGAN DEVELOPMENT CORPORATIONS & MULTIMODAL COMMERCE: (OR "AEROTROPOLIS")

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<http://www.house.mi.gov/hfa>

House Bill 5346 as enrolled
Public Act 275 of 2010
Sponsor: Rep. Douglas Geiss

Senate Bill 1079 as enrolled
Public Act 272 of 2010
Sponsor: Sen. Randy Richardville

House Bill 5347 as enrolled
Public Act 276 of 2010
Sponsor: Rep. Pam Byrnes

Senate Bill 1082 as enrolled
Public Act 273 of 2010
Sponsor: Sen. Mark Jansen

House Bill 5349 as enrolled
Public Act 277 of 2010
Sponsor: Rep. John Walsh

Senate Bill 1084 as enrolled
Public Act 274 of 2010
Sponsor: Sen. Tupac Hunter

House Committee: Transportation
Senate Committee: Commerce and Tourism
Complete to 12-22-10

A BRIEF SUMMARY OF THE BILLS LISTED ABOVE AS ENROLLED

These bills were part of a package of bills known as the "Aerotropolis" legislation, because nine municipalities in Wayne and Washtenaw Counties near Detroit Metro Airport have already entered into an interlocal agreement that would allow them to make use of the proposal to employ a variety of incentives in order to stimulate economic development close to the airport. These incentives include business tax credits, real and personal property tax abatements, tax increment finance plans, and renaissance zones. The package of bills does not use the term "Aerotropolis," and the language of the proposed legislation is not specific to Detroit Metro Airport (or even to airport-related development). However, the supporters of the Aerotropolis Development Corporation formed by the two counties and seven local units within those counties were the main proponents of the legislation.

NEXT MICHIGAN DEVELOPMENT LEGISLATION

House Bill 5346 provided for the creation of up to five *Next Michigan Development Corporations*, which have as their purpose encouraging economic development and investment, job creation and job retention, and ancillary economic growth. The corporations are to be designated by the Michigan Strategic Fund. The bill creates a new act, *the Next Michigan Development Act*.

This new kind of corporation requires an interlocal agreement between two or more local units of government, at least one of which must be a county for the purpose of jointly exercising economic development powers and attracting "eligible next Michigan businesses." Interlocal agreements are authorized under the Urban Cooperation Act of 1967. Counties, cities, villages, townships, and charter townships are eligible to participate. Participating

communities must form an "eligible act 7 entity" using the Urban Cooperation Act. However, an "eligible urban entity" can also be designated as a development corporation; an interlocal agreement is not needed in that case. (The term "eligible urban entity" refers to a city of 100,000 or more that is the largest city in a metropolitan statistical area.)

The term "eligible Next Michigan business" is taken from Section 3 of the Michigan Economic Growth Authority Act, as amended by **Senate Bill 1079**.

In **Senate Bill 1079**, the term *eligible Next Michigan business* refers to a business engaged in the shipment of tangible personal property via multimodal commerce; a supply chain business providing a majority of its services to businesses engaged in the shipment of tangible personal property, including inventory, via multimodal commerce; a manufacturing or assembly facility receiving a majority of its production components via multimodal commerce; a manufacturing or assembly facility shipping a majority of products via multimodal commerce; or a light manufacturing or assembly facility that packages, kits, labels, or customizes products and ships those products via multimodal commerce.

Multimodal commerce is defined to mean the movement of products or services via two or more of the following: air, road, rail, or water.

House Bills 5347 & 5349 and Senate Bills 1082 & 1084 each amended a separate act to allow these new development corporations, generally speaking, to employ real and personal property tax abatements, tax increment financing plans, and renaissance zones in the way that other local units of government currently can. **Senate Bill 1079** provides for Michigan business tax (MBT) credits.

THE BILLS

House Bill 5346 (Next Michigan Development Act)

To have an entity designated as a development corporation, participating communities (acting together as an "eligible act 7 entity") must submit an application to the board of the Michigan Strategic Fund. The application must include the interlocal agreement forming the eligible act 7 entity, along with the approval of the agreement by the Governor (as required by the Urban Cooperation Act). An eligible urban entity could also apply to the MSF board for designation as a corporation. An eligible urban entity could expressly designate a nonprofit corporation or an instrumentality of the entity to file the application and to act as a development corporation on its behalf.

The MSF board would grant or deny designation based on the following criteria:

- (1) The nominal level of unemployed workers within the county or counties party to the interlocal agreement or within the eligible urban entity.
- (2) The number of local units that are party to the interlocal agreement (when there is one).
- (3) Whether the application demonstrates evidence of significant job creation potential of a regional or state asset, or combinations of enterprises, facilities, or

obsolete facilities, as documented by a comprehensive business plan and a third-party study quantifying the job creation potential and the degree of job creation potential.

(4) Whether the application is supported by public and private commitment and the degree of the commitment.

(5) The extent to which the interlocal agreement creates the possibility of streamlined permitting.

The board of the MSF cannot designate more than two Next Michigan Development Corporations in a calendar year, with an exception: three corporations could be designated in one year if one of the corporations designated is located entirely north of 43° 49' in Michigan (roughly Clare and north).

The role of a Next Michigan Development Corporation is to seek to attract eligible Next Michigan businesses to its district, and in doing so, it could exercise all of the powers, privileges, and responsibilities granted under state law, including the Renaissance Zone Act, the Local Development Financing Act, and Section 9f of the General Property Tax Act (which allows the exemption of new personal property of an eligible business). If a development corporation dissolves, the incentives previously granted remain valid for their respective terms. (The incentives would then be administered by the appropriate local unit of government.)

The corporation is subject to the Open Meetings Act and the Freedom of Information Act. However, certain financial and proprietary information of businesses could remain confidential.

The Michigan Economic Development Corporation is required to market these new development corporations.

Senate Bill 1079 (MEGA -- Multimodal Commerce)

The bill amended the Michigan Economic Growth Authority Act, under which eligible businesses can claim Michigan business tax (MBT) credits. It also contains definitions of "eligible Next Michigan business" and "multimodal commerce," as described earlier.

House Bill 5347 (Tax Increment Financing & Smart Zones)

The bill amended the Local Development Financing Act. The bill allows a Next Michigan Corporation to use tax increment financing under this act after adopting a development plan. The eligible businesses would be designated in the development plan. The executive committee of the corporation would act as the board of the LDFA created by the corporation. Each corporation could create one LDFA.

The act currently allows cities, villages, and urban townships to capture the growth in property taxes (tax increments) within a specified area to fund activities and infrastructure benefiting certain specified kinds of firms. (This is the act that also provides for the creation of certified technology parks or Smart Zones.) The bill extends this authority to the new Next Michigan Corporations. Under certain circumstances, a new LDFA created by a corporation could absorb an existing Smart Zone that lies within its territory, with the approval of the municipality that created that Smart Zone. The bill also allows for the

capture of state and local school revenues (in addition to other property tax revenues) for up to 15 years to fund up to 50 percent of the cost of public facilities related to or for the benefit of eligible property in a Next Michigan Development Area, with the approval of the State Treasurer.

Taxing jurisdictions not party to the intergovernmental agreement that created the corporation could exempt their taxes from capture.

House Bill 5349 (Renaissance Zones)

The bill amended the Michigan Renaissance Zone Act to allow the board of the Michigan Strategic Fund to designate Next Michigan Renaissance Zones within a development district. Renaissance zones are typically described as granting virtually tax-free status to the businesses or residents in them. Businesses in renaissance zones are exempt from the Michigan business tax (MBT), the six-mill state education tax, local real and personal property taxes, specific taxes levied in lieu of property taxes, and (in Detroit) the utility users tax, as well as state and city income taxes.

The MSF could designate up to 12 zones per development district, with the actual number determined by the number of parties entering into the interlocal agreement forming the corporation. The aggregate territory of all zones within a district could not exceed 200 acres times the number of zones designated, or 1,675 acres. A zone would have a minimum duration of five years and a maximum of 10 years. (A zone with an initial duration of less than 10 years could be subsequently extended, although the total duration could not exceed 10 years.) Eligible businesses within a zone could be granted the benefits of zone status for up to 15 years.

The Strategic Fund determines which businesses are eligible for Renaissance Zone benefits based on recommendations from a Next Michigan development corporation. Up to 25 businesses can be certified as eligible businesses under the act, and no more than 10 businesses can be certified in any one development district. The MSF board must establish a standard process and appoint a special committee to evaluate applications. A business could not be certified for incentives unless it opens a new location in the state or, if already located in the state, unless it will materially expand its business in the state.

A development corporation could not use renaissance zone incentives primarily to recruit a business to move from one location in the state to another and, generally speaking, the MSF could not certify a business for incentives if the principal economic effect is to transfer employment from one or more municipalities to a development district. Exceptions are provided in cases where the number of employees to be transferred would constitute less than 15 percent of the total number of full-time employees proposed to be located in the development district. When transfers of employment would occur from the certification of a business, the MSF board must notify the affected local units, and those units could appeal the certification.

A business could not be certified if the "business applicant" has been convicted of a felony and the MSF board determines that the conviction will have a material impact on the applicant's ability to fulfill obligations under the act. The term "business applicant" here refers to the business entity, affiliates, subsidiaries, officers, directors, managerial employees,

and any person who holds a pecuniary interest in the business entity of 20 percent or more, directly or indirectly.

The MSF board could revoke the designation of a zone or the certification of an eligible business under certain circumstances, including the failure of a business to begin operations within two years, the ceasing of a business operation, the failure to begin construction or renovation within one year from certification, and the failure to meet jobs and investment criteria. Revocations can be appealed.

Senate Bill 1082 (PA 198 Abatements)

The bill allows a Next Michigan Corporation to grant PA 198 property tax abatements under the Plant Rehabilitation and Industrial Development Districts Act (commonly referred to as PA 198). Under that act local units of government can grant industrial facility exemption certificates to new and speculative buildings and to replacement facilities. The certificate, generally speaking, grants a property tax abatement on a facility (but not the land) for up to 12 years to an industrial facility, by allowing a firm to pay a lower "specific" tax instead of regular property taxes. The specific tax is roughly one-half of the standard property tax for a new facility. For a rehabilitated facility, the tax is based on the value of property prior to renovation. Approval is first required by a local unit of government and subsequently by the State Tax Commission, which checks to see if the law has been followed properly.

Under Senate Bill 1082, a Next Michigan Corporation can act as the local unit of government in establishing and operating a plant rehabilitation district or industrial development district. Only property used in the operation of an eligible Next Michigan business is eligible for an abatement. A development corporation could not approve an application for an exemption certificate for a business without a written agreement entered into with the business. The agreement must contain a remedy provision under which the exemption certificate would be revoked if the business violates the written agreement, and the business could be required to repay all or part of the benefits received.

Senate Bill 1084 (Personal Property Tax Abatements)

The bill amended Section 9f of the General Property Tax Act. That section allows certain local units to exempt new personal property owned or leased by eligible businesses. The exemption requires the concurrence of the State Tax Commission and the president of the Michigan Strategic Fund. The bill allows Next Michigan corporations to use these exemptions and uses the same criteria as found in Senate Bill 1082 for PA 198 abatements.

FISCAL IMPACT:

The fiscal impact of this package depends on the change in economic activity and the taxes associated with the economic activity.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.