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COUNTIES: FUNDS TO ENCOURAGE AND ASSIST BUSINESS

House Bill 4300 as enrolled
Public Act 122 of 2003
Sponsor: Rep. Lorence Wenke

Senate Bill 239 as enrolled
Public Act 94 of 2003
Sponsor: Sen. Thomas George

Second Analysis (7-31-03)
**House Committee: Local Government
and Urban Policy**
**Senate Committee: Local, Urban and
State Affairs**

THE APPARENT PROBLEM:

According to committee testimony, the Kalamazoo County board of commissioners would like to contribute to the Southwest Michigan First Growth Fund, a 501(c)(3) nonprofit corporation. County officials also would like to make grants or loans to local units of government within the county through a special infrastructure fund. The fund would be intended to foster economic development by assisting local units in making infrastructure improvements through grants of up to \$100,000. To be eligible for grants, the infrastructure improvements (such as water, sewer, and storm drain projects, street projects, and environmental cleanup) would have to be connected to a prospective economic development project that would result in the creation of permanent jobs, or in job retention.

Kalamazoo County officials have been advised by legal counsel that specific enabling legislation is needed for the counties to be able to contribute money to a nonprofit entity that would, in turn, loan the money to a private businesses in order to encourage economic development. Enabling legislation also is needed to authorize counties to give grants or loans to local units of government within a county's jurisdiction for economic development purposes.

Legislation has been introduced to allow, but not require, the 83 counties in Michigan to engage in these economic development activities.

THE CONTENT OF THE BILLS:

House Bill 4300 would amend Public Act 380 of 1913 (MCL 123.872), which regulates gifts of property to local units of government, to allow a county to grant or loan funds to a township, village, or city within the county for the purpose of encouraging and assisting businesses to locate and expand within the county. However, the bill specifies that a grant or loan could not be derived from ad valorem taxes (i.e., property taxes) except for ad valorem taxes approved by a vote of the people for economic development. The bill also would require the county to establish an application process for proposals to receive a grant or loan. Further, the awarding of a grant or loan would have to be made at a public hearing of the county board of commissioners. The grant or loan contract would require a report to the county board of commissioners regarding the activities of the recipient and the degree to which the recipient had met the stated public purpose of the funding.

Senate Bill 239 would amend Public Act 156 of 1851 (MCL 46.11), which defines the powers and duties of county commissioners, to permit commissioners, at a lawfully held meeting, to grant or loan funds to a nonprofit corporation organized for the purpose of providing loans for private sector economic development initiatives. However, the bills specify that a grant or loan could not be derived from ad valorem taxes (i.e., property taxes) except for ad valorem taxes approved by a vote of the people for economic development. The bills also would require the county to establish an application process for proposals to receive a grant or loan. Further, the

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awarding of a grant or loan would have to be made at a public hearing of the county board of commissioners. The grant or loan contract would require a report to the county board of commissioners regarding the activities of the recipient and the degree to which the recipient had met the stated public purpose of the funding.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency notes that these legislative proposals would have an unknown, although likely minimal, impact on local units. The bills would not affect state expenditures, and the effects on state revenues would likely be negligible or zero. (SFA floor analyses of House Bill 4300 dated 5-27-03 and of Senate Bill 239 dated 4-14-03.)

ARGUMENTS:

For:

The bills would grant counties specific authority to make grants and loans in order to spur or retain business growth. In one case, the bill would allow county officials to make grants and loans to nonprofit corporations that would, in turn, loan money to private businesses for economic development purposes. In the other case, county officials could make grants and loans to local units of government within the county for economic development purposes. Legal counsel has informed the Kalamazoo County Board of Commissioners that counties can only exercise powers granted to them by the state constitution or by the legislature. The bills would provide the statutory authority that would enable (but not require) all county boards of commissioners to undertake economic development programs or projects, both with nonprofit agencies and also with other local units of government located within their jurisdictions. The bills are permissive, giving county officials in Michigan's 83 counties additional tools to become more directly involved in promoting business retention and job growth in their regions, if they decided to do so.

Against:

County officials should not use tax dollars to fund private sector businesses. Instead, tax revenue should fund public goods and services, the benefits from which are available to all citizens within the community. In a free-market economy developers should look to financial markets to cover their start-up costs, and spare taxpayers the burden of subsidizing business growth.

Indeed, when these bills were introduced during the last legislative session, a citizens group in Kalamazoo County expressed opposition to the bills on the grounds that public funds should not be used to subsidize private development. They argued that such investments are risky and potentially wasteful. Further, they argued that the bills violated the provision of the state constitution that says, "The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private". (Article IX, Section 18)

Response:

The bills have been amended to ensure that a public process is used when making grants and loans of taxpayers' dollars to promote private sector business growth. Further, the recipients of the money in the private sector would be required to report to county officials about the ways their economic development activities met the public purpose of the projects that were approved. In addition, public scrutiny of the activities of all private nonprofit agencies that receive more than half of their funds from any combination of government grants and loans are subject to the Freedom of Information Act under a recent State of Michigan Court of Appeals case, *Velda S. Sclafani v. Domestic Violence Escape*, a.k.a. DOVE, Inc. No. 240503. Gogebic Circuit Court, published on February 7, 2003.

Analyst: J. Hunault

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