



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 257 (as introduced 3-12-13)
Sponsor: Senator Mike Kowall
Committee: Economic Development

Date Completed: 3-13-13

CONTENT

The bill would amend Chapter 2 (Business Improvement Zone) of Public Act 120 of 1961, which provides for the creation, operation, and dissolution of principal shopping districts and business improvement zones, to do the following:

- Expand the activities that may be conducted by a business improvement zone (BIZ).
- Require the majority of all parcels included in a zone area, both by area and assessed value, to be assessable property if the zone plan for the area provided for allocation of assessments based upon assessed value.
- Revise requirements for a petition to establish a BIZ and zone plan.
- Revise deadlines and notice publication requirements in the BIZ and zone plan approval process.
- Specify that a BIZ board member nominated by the chief executive of the city or village would be considered confirmed by the local unit's governing body if it did not disapprove the nomination within 60 days.
- Delete a provision under which a BIZ assessment is not a special assessment collected under the General Property Tax Act.
- Allow the lien on an unpaid BIZ assessment to include interest.
- Allow an unpaid BIZ assessment to be returned as delinquent by the local treasurer and be collected in the same manner as a delinquent tax special assessment, along with interest, fees, and costs.
- Specify that if an annual audit of a BIZ contained material exceptions, the BIZ board would have to adopt a plan within 90 days to remedy the exceptions.
- Allow approval of a new zone plan, after a BIZ's seven-year-period, to be approved by 50% of the property owners' weighted vote, rather than 60%.
- Require 30%, rather than 20%, of the owners of assessable property within a BIZ to sign a petition for dissolution of a BIZ, and require a weighted vote of 60% of the property owners, rather than 50%, to dissolve a BIZ.
- Allow the merger of two or more business improvement zones within the same city or village.
- Delete a provision restricting a city's or village's establishment of a BIZ if the city or village had established a business improvement district under Chapter 1 of the Act on the date Chapter 2 took effect.

The bill also would repeal Section 10d of the Act, which allows the property owners within a proposed zone area to adopt a zone plan for submission to and approval by the governing body of the city or village in which the BIZ is proposed to be located.

BIZ Activities

Chapter 2 of the Act authorizes a city or village to establish one or more business

improvement zones. A BIZ is a public body corporate and may engage in specific activities for the benefit of property owners located in the zone. Under the bill, in addition to currently listed activities, a BIZ could do all other acts and things necessary or convenient to exercise the powers, duties, and jurisdictions of the BIZ under the Act or other laws that relate to the purposes, powers, duties, and jurisdictions of the BIZ.

Chapter 2 allows a BIZ to contract with a nonprofit corporation or any other public or private entity and pay a reasonable fee to the corporation or entity for services provided. The bill specifies that two or more business improvement zones could contract with the same nonprofit corporation or public or private entity.

Chapter 2 provides that a BIZ has no authority other than the authority described in the Act. Under the bill, a BIZ would have no authority other than that described in the Act or other Michigan laws.

Zone Area Property

Currently, the majority of all parcels included in a zone area, both by area and by *taxable* value, must be assessable property. Under the bill, that would apply if the zone plan for the area provided a basis for allocating assessments other than assessed value. If the zone plan for the zone area provided for allocation of assessments based upon assessed value, the majority of all parcels included in a zone area, both by area and *assessed* value, would have to be assessable property.

Under Chapter 2, if at the time the chapter took effect (March 1, 2002), a business improvement district (BID) established under Chapter 1 (Principal Shopping District) was located in a city or village, a BIZ could not or may not be established under Chapter 2 within that city or village unless, with 180 days or during July 2005 or July of every third year after 2005, the governing body of the city or village adopted or adopts a resolution authorizing it to consider the establishment of a BIZ under Chapter 2. The bill would delete that provision.

BIZ & Zone Plan Petition

Chapter 2 allows a person to initiate the establishment of a BIZ by delivering a

petition to the clerk of the city or village in which a proposed BIZ area is located. The chapter specifies the petition must contain, including the boundaries of the zone area. The bill, instead, the petition to include an attached map and description of the geographic boundaries of the zone area sufficient to identify each assessable property included.

A petition also would have to contain an attached zone plan, which would have to include all of the following:

- The proposed initial board of directors for the zone, except for a member who could be appointed by the city or village.
- The method for removal, appointment, and replacement of the board.
- A description of projects planned during the "7-year period", including the scope, nature, and duration of the projects.
- An estimate of the total amount of expenditures for projects planned during the 7-year period.
- The proposed source or sources of financing for the projects.
- If the proposed financing included assessments, the projected amount or rate of the assessments for each year and the basis upon which the assessments were to be imposed on assessable property.
- A plan of dissolution for the BIZ.

A petition also would have to include a basis for allocating assessment in the zone area, including assessments based upon taxable value or assessments based upon assessed value.

Currently, after a petition is filed, the clerk must notify all property owners within the zone area of a public meeting of the property owners regarding the establishment of the BIZ, to be held not less than 45 days or more than 60 days after the filing of the petition. The notice must be sent by first class mail at least 14 days before the date of the meeting. The notice must include the specific location and the scheduled date and time of the meeting. The bill would delete these requirements.

Chapter 2 defines, "7-year period" as the period in which a BIZ is authorized to operate, beginning on the date that it is created or renewed and ending seven calendar years after that date. Under the

bill, a "7-year period" would end 10 calendar years after the date the BIZ was created or renewed.

BIZ & Zone Plan Approval Process

If a zone plan is adopted and presented to the clerk of the city or village, the governing body of the city or village must schedule a public hearing within 45 days to review the plan and any proposed assessment and to receive public comment. The bill would change that to 28 days.

At the public hearing or its next regularly scheduled meeting, the governing body must approve or reject the establishment of the BIZ and the zone plan. If it rejects the BIZ and plan, the clerk must notify all property owners within the proposed zone of a reconvened meeting of the property owners. At that meeting, the property owners may amend the zone plan. The reconvened meeting must be held not sooner than 10 days or later than 21 days after the date of the governing body's rejection. Under the bill, that subsequent meeting would have to be held not sooner than seven days or later than 21 days after the rejection.

The amended plan may be resubmitted to the clerk for approval or rejection at a meeting of the governing body within 60 days after the amended zone plan is resubmitted to the clerk. The bill would change that to 28 days. If an amended zone plan is not rejected within 60 days of the date it is resubmitted to the clerk, it is considered approved by the governing body. The bill would change that to 56 days.

If an amended zone plan is approved or considered approved, the clerk must set an election within 60 days following approval. The bill would change that to 49 days. The clerk must send to the property owners notice by first-class mail of the election, at least 30 days before the election, and publish the notice at least twice in a newspaper of general circulation in the city or village. The bill would change that deadline to 28 days and would require publication of the notice just once. Currently, the first publication must be not less than 10 days or more than 30 days before the scheduled election. Under the bill, the single notice would have to be

published not less than seven days or more than 21 days before the election.

All property owners as of the date of the delivery of the petition to establish a BIZ and zone plan are eligible to participate in the election, which must be conducted by mail. Votes of property owners are weighted in proportion to the amount that the taxable value of their respective real property for the preceding calendar year bears to the taxable value of all assessable property in the zone area. Under the bill, votes would be weighted in that manner if the zone plan provided a basis for allocating assessments based upon taxable value. If the zone plan provided for allocation of assessments based upon assessed value, the votes of property owners would have to be weighted in proportion to the amount that the assessed value of their respective real property for the preceding calendar year bore to the assessed value of all assessable property in the zone area. If the zone plan provided a basis for allocating assessments other than taxable value or assessed value, the votes of property owners would have to be weighted in proportion to the amount that the weighted value for their respective real property bore to the total weighted value of all assessable property in the zone area.

Board of Directors

The day-to-day activities of a BIZ and implementation of the zone plan must be managed by a board of directors. The board must consist of an odd number of directors between five and 15 in number. The board may include one director nominated by the chief executive of the city or village approved by its governing body. The bill would refer to such a member confirmed, rather than approved, by the governing body. Under the bill, a nomination not disapproved by the governing body within 60 days would stand as confirmed.

BIZ Assessments

A BIZ may be funded in whole or in part by one or more assessments on assessable property, as provided in the zone plan. An assessment under Chapter 2 is in addition to any taxes or special assessments otherwise imposed on assessable property. Under the bill, the BIZ, with the approval of the board, could enter into agreements with one or

more property owners in the city or village for the provision of business zone activities or services to the property owner or owners by the BIZ in exchange for monetary contributions to the BIZ from the property owner or owners.

Chapter 2 states that an assessment under it is not a special assessment collected under the General Property Tax Act. The bill would delete that provision.

Under Chapter 2, if any portion of an assessment has not been paid within 90 days after it was due, that portion of the unpaid assessment constitutes a lien on the property. The lien amount is for the unpaid portion of the assessment and may not include any interest. Under the bill, the lien would include any applicable interest. Alternatively, a delinquent and unpaid assessment could, at the request of the BIZ, be returned as delinquent by the treasurer of the city or village and be collected in the same manner as a delinquent tax special assessment along with any associated interest, fees, and costs under the General Property Tax Act.

Audits & Corrections

Under Chapter 2, expenses incurred in implementing any project or service of a BIZ must be financed in accordance with the zone plan. All expenditures by a BIZ must be audited annually by a certified public accountant. If an annual audit contains material exceptions, and those exceptions are not substantially corrected within 90 days of the delivery of the audit, the BIZ must be dissolved in accordance with the zone plan upon approval of the dissolution by the governing body of the city or village. Under the bill, instead, if an annual audit contained material exceptions, the board of the BIZ would have to adopt a plan within 90 days to remedy the exceptions and forward a copy of that plan to the city or village.

Reapproval of a BIZ

Before the expiration of any "7-year period", the board of a BIZ must notify the property owners of a special meeting, at least 14 days before the meeting, to approve a new zone plan for the next 7-year period. Approval of the new zone plan at the special meeting by 60% of the property owners of

assessable property voting at the meeting, with the votes being weighted as required under Chapter 2, constitutes reauthorization of the BIZ for an additional 7-year period. Under the bill, approval of the new plan would require 50% of the property owners' weighted vote.

Dissolution of a BIZ

Upon written petition signed by 20% of the property owners of assessable property within a zone area, the board must place dissolution of the BIZ on the agenda of the next annual meeting, if that meeting is to be held within 60 days after receipt of the petition, or at a special meeting to be held within 60 days after receipt of the petition. The bill would require a petition to be signed by 30% of the property owners, and would refer to a meeting held within 63 days after the petition was received.

Chapter 2 requires the BIZ to be dissolved upon a vote of more than 50% of the property owners of assessable property voting at the meeting. Under the bill, the BIZ would have to be dissolved upon a vote of more than 60% of the property owners of assessable property voting at the meeting, with the votes weighted as specified under Chapter 2.

A dissolution may not take effect until all contractual liabilities of the BIZ have been paid and discharged. Under the bill, a dissolution could not take effect until the later of the end of the second calendar year after the vote for dissolution or all contractual liabilities had been paid and discharged.

Merger of Zones

The bill would allow two or more business improvement zones within the same city or village to merge into a single BIZ, if the board of each zone approved a merger agreement among the merging zones and the merger agreement also were approved by the governing body of the city or village.

A merger agreement would have to include, without limitation, a manner of selecting the board of directors of the merged BIZ, a zone plan for the merged BIZ, and a plan for establishing and collecting assessments under the merged BIZ.

MCL 125.990 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate effect on local units that have established business improvement zones. To the extent that the changes would allow zones to engage in other activities, consolidate or coordinate activities, and/or would alter the manner in which votes may be counted, if these changes resulted in a zone taking different actions, the bill could alter both revenue and/or expenditure. The actual impact would depend on the nature of any changes and the specific characteristics of the affected properties.

The bill would have no effect on State revenue or expenditure.

Fiscal Analyst: David Zin

S1314\S257sa

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.