

# Legislative Analysis



## CULTURAL REDEVELOPMENT DISTRICTS: CREATE AUTHORITY & PROVIDE TAX CREDITS

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**House Bill 5947**  
**Sponsor: Rep. Steve Tobocman**

**House Bill 5949**  
**Sponsor: Rep. Ed Clemente**

**House Bill 5948**  
**Sponsor: Rep. Jeff Mayes**

**House Bill 5950**  
**Sponsor: Rep. Bill Huizenga**

**Committee: New Economy and Quality of Life**  
**Complete to 5-14-08**

### A SUMMARY OF HOUSE BILLS 5947 - 5950 AS INTRODUCED 4-8-08

House Bill 5947 would create the Cultural Redevelopment District Authority Act, under which special districts would be created in which tax benefits would be available under the Michigan business tax, state income tax, and the sales tax.

House Bill 5948 would amend the Income Tax Act (MCL 206.30) to create a tax credit for landlords who rent to artists, and a tax credit for those who make contributions to a nonprofit arts organization located in a cultural redevelopment district.

House Bill 5949 would amend the Michigan Business Tax Act (MCL 208.461) to create tax incentives for community revitalization projects located in arts districts. Credits would be available based on rental of property to artists and contributions to nonprofits, similar to the income tax credits, as well as credits awarded to projects by the new state authority (limited to \$1 million per year and \$250,000 per project).

House Bill 5950 would amend the General Sales Tax Act (MCL 205.4ee) to create a sales tax exemption for artist materials and works sold in a cultural redevelopment district.

A more detailed description of each bill follows.

#### **House Bill 5947**

House Bill 5947 would create a new act to be entitled the Cultural Redevelopment District Authority Act. It would allow officials of a "qualified local government" (those in cities, villages, or townships) to operate a cultural redevelopment district in order to foster economic development. The purpose of the district would be to stimulate cultural, industrial, commercial, and residential improvements, prevent physical and infrastructure deterioration, and provide exemptions and credits from certain taxes.

The bill specifies that the legislature finds and declares that there exists in Michigan a continuing need for programs to assist local governmental units in encouraging cultural

development, cultural redevelopment, economic development, the consequent job creation and retention, and economic growth. To those ends, the legislature, through this legislation, seeks to assist and encourage the creation of cultural redevelopment districts, and provide temporary relief from certain taxes in those districts.

The Authority. Under the bill, a cultural redevelopment district authority would be created as a public body corporate and politic within the Department of Labor and Economic Growth. While the authority would exercise its duties independently of the department, its budgeting, procurement, and related administrative functions would be conducted by the department.

The Authority Board of Directors. The authority would have a 13-member board of directors, including the directors of the Departments of Labor and Economic Growth and of History, Arts, and Libraries; the Michigan Council for Arts and Cultural Affairs; the State Historic Preservation Office of the Michigan Historical Center; the Michigan State Housing Development Authority; the chief executive officer of the Michigan Economic Development Corporation; the state librarian; four members with knowledge, skill, or experience in private development or local arts or cultural organizations appointed by the governor with the advice and consent of the Senate; and two members appointed by the governor from two lists of two or more individuals, one list selected by the Majority Leader of the Senate, and the other list by the Speaker of the House, who have experience in private development or local arts or cultural organizations. The members would serve four-year terms (although some of those first appointed would serve shorter terms so that that ends of terms would be staggered, thus assuring some continuity). The board members would not receive compensation, but could receive reasonable reimbursement for necessary travel and expenses incurred in the discharge of their duties. The board would select a member to serve as chairperson, and would be required to discharge its duties in a nonpartisan manner.

Application to Create a District. One or more qualified governmental units (a city, a village, and/or a township) could apply to the authority's board to designate a portion of its geography as a district if all of the following criteria were met: (1) the geographic area was located within the boundaries of the qualified local governmental unit or units that applied; (2) the application included a development plan; (3) the application included the proposed duration of district status, not to exceed 10 years (except as otherwise noted in the legislation); and (4) if a qualified unit were a city, then that city's mayor's written approval of the application. Only one application could be submitted, on an application form developed by the Department of Labor and Economic Growth. The board could request any information from an applicant, in addition to that contained in an application, if it were needed to evaluate a proposal

Authority Board Review of Applications. The authority board would review all applications and determine which met the four criteria noted above. Then the board members would: (1) designate districts; (2) approve or reject the duration of district status; (3) approve or reject the geographic boundaries and the total area of the district as

submitted in the application; and (4) approve or reject each tax exemption, deduction, or credit.

The board could not alter the geographic boundaries, unless the officials of the qualified local government unit or units consented, by resolution, to the alteration. The designation of a district would take effect on January 1 in the year following the designation.

Board Evaluation Criteria. When designating a district, the authority board would be required to consider the following criteria:

- Give priority to applications that included new business activity.
- Find evidence of adverse economic and socioeconomic conditions within the proposed district.
- Assess the viability of the development plan.
- Assess whether the development plan was creative and innovative.
- Determine the public and private commitment to, and other resources available for, the proposed district.
- Determine how district designation would relate to a broad plan for the community as a whole.
- Ascertain the level of demonstrated cooperation from artists and the local arts community.
- Evaluate any other information required by the board.

Tax Exemption, Deduction, or Credit for Artists. The bill specifies that an "artist" who is a resident of or conducts business in a district, or a "qualified business" that is located and conducts business activity within a district, would receive the exemption, deduction, or credit (determined by the authority board), as provided in sections 461 and 462 of the Michigan Business Tax Act; sections 272 and 275 of the Income Tax Act; or Section 4cc of the General Sales Tax Act.

The bill defines "artist" to mean a person who creates or executes an artistic work. "Artistic work" means an original and creative work, whether written, composed, created, or executed for one-of-a-kind or limited production, which is one of the following: (1) a book or other writing; (2) a play or the performance of a play; (3) a musical composition or the performance of the composition; (4) a painting or other like picture; (5) a sculpture; (6) a traditional and fine craft; (7) the creation of a film, the acting of a film, or photography; (8) the creation of a dance or the performance of the dance; and (9) a design art. Further, the bill defines "qualified business" to mean a person who creates an artistic work or assists others in the creation, display, or sale of an artistic work.

Reimbursement of School Aid Fund. The bill specifies that the state would reimburse the School Aid Fund for all revenues lost as the result of the creation of a district. Foundation allowances calculated under Section 20 of the State School Aid Act would not be reduced as a result of lost revenues arising from this legislation.

Authority Board Operations. The authority board would be required to conduct all business at public meetings held in compliance with the Open Meetings Act, and all of its records would be subject to the Freedom of Information Act.

Annual Report to Legislature. The bill specifies that this act be construed liberally to effectuate the legislative intent, and that all powers granted be broadly interpreted. The Department of Labor and Economic Growth would be required to annually report to the legislature on the economic effects of this act in each district. That report would have to include, but would not be limited to, all of the following: (a) the number of new jobs created; (b) the percentage change in aggregate taxable value and state equalized value; (c) the average wage of new jobs created; (d) the percentage change of adjusted gross income of residents; and (e) the estimated change in the population from the immediately preceding year.

Definitions. In addition to definitions for "artist" and "artistic work," the bill defines "artist materials" to mean materials used directly in the creation of artistic work that are for sale or purchased within the district. Other terms that are defined in the bill include "qualified local governmental unit" which means a city, village, or township; and the term "development plan" which means a written plan that addresses the criteria in Section 7 of the bill, and includes all of the following: (1) a map of the proposed cultural redevelopment district that indicates that geographic boundaries, the total area, and the present use and conditions generally of the land and structures within those boundaries; (2) evidence of community support and commitment from cultural, residential, and business interests; (3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvements, and identify job opportunities; (4) current and anticipated improvement in infrastructure and social, economic, and demographic characteristics of the proposed district; and (5) any other information required by the board.

### **House Bill 5948**

House Bill 5948 would amend the Income Tax Act (MCL 206.30) to create a tax credit for landlords who rent to artists, and a tax credit for those who make contributions to a nonprofit arts organization located in a cultural redevelopment district.

Landlord's tax credit. The bill specifies that for tax years that begin after December 31, 2008, a taxpayer could claim a credit against the state income tax equal to the sum of the following:

- the amount of property taxes levied against the taxpayer's *property that is rented to a person who is an artist or used to create, sell, or display artistic work* based on both the proportion of the property rented to an artist and the proportional number of days in the year the property is rented to an artist.
- the amount of property taxes levied against the taxpayer's *property that is lived in by the taxpayer who is an artist and is used by the taxpayer to create or display*

*artistic work* based on both the proportion of the property rented to an artist and the proportional number of days in the year the property is rented to an artist.

A taxpayer could claim the credit if all of the following applied: the artist created artistic work while residing at the taxpayer's property; the taxpayer's property was located in a cultural redevelopment district in Michigan; and the taxpayer had applied to the cultural redevelopment district authority (for the cultural redevelopment district in which the property was located), and the authority certified that the taxpayer was eligible.

The credit would be equal to the following percentage of the total amount determined above: 80 percent for the first five tax years; 70 percent for the sixth tax year; 60 percent for the seventh; 50 percent for the eighth; 40 percent for the ninth; 30 percent for the 10th tax year; and zero percent for each year after the 10th tax year.

If the taxpayer's property contained multiple units, the credit would be prorated to include only that portion of the property taxes attributable to the units or portions of units rented to one or more artists, or used for artistic work.

If the credit, and any unused carry-forward of the credit, exceeded the taxpayer's tax liability, that portion that exceeded the tax liability would not be refunded, but it could be carried forward to offset tax liability in subsequent years for 10 years, or until used up, whichever occurred first.

Contribution tax credit. In addition, the bill specifies that for tax years that begin after December 31, 2008, a taxpayer could claim a state income tax credit equal to the contributions made in the tax year to a nonprofit organization located within or conducting business in a cultural redevelopment district. The credit would not exceed \$100 for a single return or \$200 for a joint return. A contribution used to calculate the credit could not be used to calculate a credit under any other section of the Income Tax Act. If the amount of the credit exceeded the tax liability of the taxpayer, that portion of the credit that exceeded the tax liability would be refunded.

Under the bill, "artist," "artistic work," "authority," and "cultural redevelopment district" would mean those terms as they are defined in the Cultural Redevelopment District Authority Act (which would be created by House Bill 5947, above). "Non-profit organization" would be defined to mean an entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code, the primary purpose of which is to promote the creation, distribution, and marketing of artistic works or arts education.

### **House Bill 5949**

House Bill 5949 would amend the Michigan Business Tax Act (MCL 208.461) to create tax incentives for community revitalization projects located in arts districts.

The bill specifies that for tax years that begin after December 31, 2008, a taxpayer may claim a credit against the Michigan Business Tax equal to the amount determined by the

Cultural Redevelopment District Authority for projects located in a cultural redevelopment district that have been approved by the authority board, and that are part of the application submitted by a qualified local governmental unit in which the project will be developed.

A taxpayer would apply to the authority board for project approval. The authority board would be authorized to approve or deny an application; either action would have to take place within 45 days after the application had been received. If the authority board did not act, the application would be considered approved as written. If a project were approved, the authority board would issue an approval letter stating that the taxpayer qualified for the credit, and the amount of the credit the taxpayer could claim for the project. If an application was denied, a taxpayer would not be prohibited from subsequently applying for the same project, or for another project. A taxpayer who claimed a credit would attach a copy of the approval letter to the annual return filed under the Michigan Business Tax, on which the credit was claimed.

The *total of all credits* for all projects approved under this section of the act could not exceed \$1 million in any calendar year. The *credit for each* project approved could not exceed \$250,000.

A taxpayer could assign all or a portion of a credit allowed; that credit assignment would be irrevocable, and would have to be made in the tax year in which the project was completed. A taxpayer could claim a portion of a credit and assign the remaining credit amount. If a taxpayer both claimed and assigned portions of the credit, the taxpayer would have to claim the portion claimed in the tax year in which the project was completed. An assignee could subsequently assign a credit or any portion of a credit to one or more assignees. The credit assignment or a subsequent re-assignment would be made on a form prescribed by the Cultural Redevelopment District Authority. The taxpayer would send a copy of the completed assignment form to the district authority in the tax year in which an assignment or re-assignment was made. An assignee or subsequent re-assignee would then attach a copy of the completed assignment form to its annual return, for the tax year in which the assignment or re-assignment was made and a credit was first claimed, which would have to be in the same tax year.

If the credit and any unused carry-forward exceeded the tax liability of the taxpayer, the excess would not be refunded, but it could be carried forward as an offset to the tax liability in subsequent tax years for 10 tax years or until the excess credit was used up, whichever occurred first.

Tax Credits. The bill specifies that for tax years that begin after December 31, 2008, a taxpayer could claim an MBT credit equal to the sum of the following:

- the amount of property taxes levied against the taxpayer's *property that is rented to a person who is an artist or used to create, sell, or display artistic work* based on both the proportion of the property rented to an artist and the number of days in the year the property is rented to an artist.

- the amount of property taxes levied again the taxpayer's *property that is lived in by the taxpayer who is an artist and is used by the taxpayer to create or display artistic work* based on both the proportion of the property rented to an artist and the number of days in the year the property is rented to an artist.

A taxpayer could claim the credit if all of the following applied: (a) the artist created artistic work while residing at the taxpayer's property; (b) the taxpayer's property was located in a cultural redevelopment district in Michigan; and (c) the taxpayer had applied to the appropriate cultural redevelopment district authority, and the authority certified that the taxpayer was eligible.

The credit would be equal to the following percentage of the total amount determined above: 80 percent for the first five tax years; 70 percent for the sixth tax year; 60 percent for the seventh; 50 percent for the eighth; 40 percent for the ninth; 30 percent for the 10th tax year; and) zero percent for each year after the 10th tax year.

If the taxpayer's property contained multiple units, the credit would be prorated to include only that portion of the property taxes attributable to the units or portions of units rented to one or more artists, or used for artistic work.

A taxpayer could assign all or a portion of a credit, and the credit assignment would be irrevocable, and made in the tax year in which the project was completed. The form and manner in which the credit is sought, and then claimed, is described above.

Contribution tax credit. In addition, the bill specifies that for tax years that begin after December 31, 2008, a taxpayer could claim an MBT credit equal to the contributions made in the tax year to a nonprofit organization located within or conducting business in a cultural redevelopment district. The credit would not exceed \$5,000 or five percent of the taxpayer's tax liability for the tax year, whichever was less. A contribution used to calculate the credit could not be used to calculate a credit under any other section of the Income Tax Act. If the amount of the credit exceeded the tax liability of the taxpayer, that portion of the credit that exceeded the tax liability would be refunded.

Under the bill, "artist," "artistic work," "authority," and "cultural redevelopment district" would mean those terms as they are defined in the Cultural Redevelopment District Authority Act (which would be created by House Bill 5947, above). "Qualified nonprofit organization" would be defined to mean an entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code, the primary purpose of which is to promote the creation, distribution, and marketing of artistic works or arts education.

### **House Bill 5950**

House Bill 5950 would amend the General Sales Tax Act (MCL 205.4ee) to create a sales tax exemption for artist materials and works sold in a cultural redevelopment district.

The bill specifies that sales tax would not apply to any of the following items sold in a Michigan Cultural Redevelopment District created under the Michigan Cultural Redevelopment District Act (which would be created by House Bill 4947): an artist's materials, and an artist's works. The Department of Treasury would certify those artist's materials and artist's works that are eligible for exemption.

Under the bill, "artist," "artist's materials," and "artist's works" would mean those terms as defined in the Michigan Cultural Redevelopment District Act (which would be created by House Bill 4947). Note: "artist's works" is *not* defined in House Bill 4947 (although "artistic work" is defined there).

### **FISCAL IMPACT:**

These bills would reduce income tax, Michigan business tax (MBT), and sales tax revenue by an indeterminate amount. The fiscal impact depends on the number of Cultural Redevelopment Districts, the landlords' property taxes on property rented to artists, the contributions made to the nonprofits, as specified in the bills, and artists' materials and works sold in the districts. These bills hold the School Aid Fund harmless, by reimbursing all revenue lost as the result of the districts. Almost all the fiscal impact would affect General Fund/General Purpose revenue, while a portion of the sales tax decrease would affect revenue sharing payments to local units of government.

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