SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

BILL NUMBER:
A-349

DATE OF INTRODUCTION:
January 8, 2002

SPONSOR:
Assemblyman Caraballo
Assemblyman O'Toole

DATE OF RECOMMENDATION:
March 26, 2002

IDENTICAL BILL:

COMMITTEE:

Assembly Commerce and Economic Growth Committee

DESCRIPTION:

This bill authorizes municipalities to establish commercial incentive zones and sharing of retail sales tax proceeds therein.

ANALYSIS:

This bill would authorize municipalities that establish special improvement districts, to designate an area made up primarily of retail businesses as "commercial incentive zones." The commercial incentive zones would receive a portion of sales tax proceeds that would be used to finance public improvement projects and to provide eligible services to municipalities in which those zones are located.

The objective behind this proposed legislation seems to be an attempt to revitalize and enhance retail activity in many of the distressed urban areas within the State. The theory is that increased economic activity within the designated commercial incentive zones will lead to lower property taxes which will induce businesses to relocate or expand into those economically depressed areas. The Legislature has already tried to do this by enacting the New Jersey Urban Enterprise Zone Act ("the Act"). It was anticipated that the Act would provide a framework for encouraging private capital investment within selected urban areas designated as Urban Enterprise Zones. The major benefits of the UEZ program were to provide: 1) a sales tax exemption which would induce businesses to relocate or expand into the zones, and 2) a reduced rate reduction on the sales of goods from the businesses in the zones to entice shoppers into the zones. Legislation, which encourages the establishment of commercial incentive zones, offers no new incentives for businesses above and beyond those offered through the UEZ program.

To date, there has been no comprehensive analysis done of the UEZ program to measure the impact of the program on the State. Without any concrete evidence to show that the UEZ program's effectiveness within the urban areas was as anticipated, it seems irresponsible to continue to push for more legislation projected to increase business activity and stimulate economic growth in disenfranchised areas within the State. The proposed bill basically appears to be a modified UEZ program disguised to look like a different agenda by the presentation of varied criteria. There is no justification for reintroducing such initiatives without knowing that the initial objectives of the UEZ program as originally implemented were attained, and met the expectations of the program's supporters.

This bill allows a portion of revenue generated within designated commercial impact zones to be held by the State Treasurer for use by the municipalities in which those zones are located, for qualified improvement projects and eligible services. Assuming that channeling pre-designated funds back to the commercial impact zones results in decreased property taxes which would otherwise be required for improvements and services within a municipality thus attracting new business into the zones, the piecemeal creation of each specially favored zone would simply shift economic growth from one neighborhood to another. If a commercial impact zone does experience an increase in healthy economic activity, its good fortune would be at the expense of neighboring municipalities. There is no guarantee that the increase in retail sales activity within the commercial impact zones will increase to the extent that the revenues raised would be sufficient enough to appropriately fund the qualified projects and services that the improvement zones need.

In addition, the bill would give municipalities the ability to control the allocation of funds received from the State Treasury. Municipalities would be allowed to establish commercial incentive zones within their perimeters. Funds would be transferred from the State Treasury to areas designated that municipalities have designated for improvements. The municipalities with selected commercial incentive zones would have the benefit of increased aide without going through the normal channels of the State's funding process. The bill provides a back-door method of transferring funds from the State Treasury to municipalities with commercial incentive zones to use for marketing, advertising and security within those zones. Empowering certain municipalities to control the flow of revenue into commercial incentive zones could easily create opportunities for abuse and fraudulent practices.

The bill not only would result in enormous lost revenue; it would also impose a tremendous administrative burden on the Division of Taxation, Department of Revenue and the Office of Management and Budget. Increased administrative responsibilities would include establishing baseline tax collections, and implementing procedures for separating the revenue earmarked for a nonlapsing Commercial Incentive Fund from the General Fund. The enactment of this bill will require the State Treasurer to undertake additional responsibilities, which may result in the reallocation of State resources.

RECOMMENDATION: The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 6

COMMISSION MEMBERS ABSTAINING: 0

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