HOUSE BILL 108:
Site and Building Development Fund

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2015-2016 General Assembly

Committee:	House Commerce and Job Development, if favorable, Appropriations	**Date:**	March 18, 2015
Introduced by:	Reps. Stam, Jeter, Waddell, S. Martin	**Prepared by:**	Greg Roney Committee Counsel
Analysis of:	PCS to First Edition H108-CSTM-2		

SUMMARY:* *The Proposed Committee Substitute (PCS) for House Bill 108 would create the Site and Building Development Fund in the Department of Commerce. The Fund would provide loans to local governments and nonprofit economic development corporations for the purchase and improvement of business facilities.

The loan is due upon the sale or long-term lease (i.e., lease with a maximum potential term of 3 or more years). The interest rate is 0% for tier-one counties, 1% for tier-two counties, and 2% for tier-three counties. Principal and accrued interest must be paid when the loan is due or more frequently. The maximum duration of a loan is 15 years.

The PCS makes the following changes to the first edition of the bill:

- ***Deletes all appropriations.***
- ***Adds a section stating the act does not obligate the General Assembly to appropriate funds to implement it.***
- ***Deletes an exemption to the review of loan agreements by the Local Government Commission because G.S. 159-148(b)(1) already exempts contracts between a local government and the State entered into as a condition to the making of loans to the local government.***

BILL ANALYSIS: House Bill 108 would establish the Site and Building Development Fund as a non-reverting fund in the Department of Commerce. The Department must use the Fund for loans to cities, counties, and nonprofit economic development corporations for the acquisition and development of qualified business facilities. The Department is also authorized to use the Fund for expenses directly related to the operation of the Fund and administering loans from the Fund.

To qualify for a loan, a nonprofit economic development corporation must be a corporation, exempt from income tax under section 501(c)(3) or 501(c)(6) of the federal Internal Revenue Code, assist local governments in reducing the burden of economic development efforts, be acknowledged through a local government resolution that the corporation is acting in support of the local government, and have a nonbinding pledge by the local government to repay the Fund if the corporation fails to make any payments.

Qualified business facilities are real property, improvements to real property, and planned improvements to real property. Improvements to real property include the following:

- New buildings, renovations to buildings, and upfitting buildings.
- Water lines, sewer lines, and other utility improvements.
- Roads, grading, signage, and other access improvements.
- Measures necessary for permitting, including services.

- Any other measures necessary for the land to be marketable for immediate use in commercial operations, including necessary services.

To implement the Fund, the Department must contract with another entity with demonstrated experience in site selection services for businesses and in evaluating sites for business recruitment purposes for a development plan. The development plan is a strategic analysis of potential qualified business facilities. The plan must be updated every four years. The consultant contract for the plan is exempted from competitive bidding and contract oversight. The cost of the development plan is an expense related to the Fund and expressly authorized to be paid by the fund.

The Department will develop written guidelines to identify and evaluate qualified business facilities. The Department publically issues written findings addressing any application approved for a loan from the Fund.

The Department issues an application form and prescribes the application process. The Department publishes proposed guidelines on the Department's Web site, provides notice to persons who have requested notice, and accepts written comments on the proposed guidelines. The Department determines the amount of the loan from the Fund, the preferred form and details of the loan participation, and the safeguards to protect the State's investment.

The Department selects loan recipients based on the following factors:

- Consistency with the economic development goals of the State and of the area where the qualified business facility will be located.
- The priority recommendations in the development plan.
- Preference for qualified business facilities located in rural or less developed areas of the State.
- Evaluation of the application to determine if the qualified business facilities are merited and appropriate for the proposed use.
- Necessity of a loan from the Fund for the completion of the qualified business facility.

Loans from the Fund must contain the following terms:

- The loan must be evidenced by a promissory note and secured by a first deed of trust on the qualified business facility.
- The maximum duration of a loan is 15 years.
- The loan is due upon the sale or long-term lease (i.e., lease with a maximum potential term of 3 or more years) of the qualified business facility. Principal and accrued interest must be paid when the loan is due or more frequently.
- The interest rate is 0% for tier-one counties, 1% for tier-two counties, and 2% for tier-three counties, based on the classification assigned to counties by G.S. 143B-437.08.
- The loan agreement must require the local government unit to obtain from any entity leasing or purchasing the qualified business facility the following:
    - An agreement that the entity will not use the qualified business facility for retail, professional office, sporting event, museum, or governmental purposes for at least five years after the lease or purchase.
    - A legal opinion based on a search of public records that the entity leasing or purchasing the qualified business facility has no debts related to unpaid taxes.

The Department at its discretion may release property from the loan if adequate security remains for the outstanding balance of the loan. The Department may use this authority to release property to restructure the terms of the loan and participate in financing transactions involving the qualified business facility.

The Department must submit a written report on the Fund to the Joint Legislative Commission on Governmental Operations and publish this report on its Web site. The Bill requires the report to disclose all activities of the Fund.

CURRENT LAW AND BACKGROUND: G.S. 143B-437.02 created the Site Infrastructure Development Fund in the Department of Commerce to make grants as follows:

- To a business to enable the business to acquire land, improve land, or both.
- To one or more State agencies or nonprofit corporations to enable the grantees to acquire land, improve land, or both and to lease the property to a business.
- To one or more local government units to enable the units to acquire land, improve land, or both and to lease the property to a business.

To be eligible for a grant, a business must invest at least $100,000,000 of private funds in the project and the project must employ at least 100 new employees.

The Site Infrastructure Development Fund has been used in one transaction for Merck Pharmaceuticals.

EFFECTIVE DATE: House Bill 108 would be effective when it becomes law. However, the act does not obligate the General Assembly to appropriate funds to implement it.