




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



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 579 (as reported without amendment)
Sponsor: Senator Jud Gilbert, II
Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 12-5-05

RATIONALE

The plant rehabilitation and industrial development districts Act, commonly referred to as PA 198, allows local units of government, with the approval of the State Tax Commission, to grant industrial facilities exemption certificates to new and speculative buildings and replacement facilities located in an industrial development district. A certificate essentially grants a property tax abatement to an industrial facility, which is subject to an industrial facilities tax that is lower than standard property taxes.

Apparently, in February 2001, a company began renovating a Port Huron facility with the understanding that the facility was located within the city's industrial development district. The company applied for an industrial facilities exemption certificate in July 2001. Reportedly, the Economic Development Alliance of St. Clair County mistakenly told the company the facility was located in the industrial development district. It was not actually located in the district and, therefore, was not eligible for an industrial facilities exemption certificate. (The city's industrial development district was expanded to include the facility in September 2001.) Under the Act, however, the industrial development district must have been established when the request for a certificate was filed. Additionally, a local unit of government may not establish a district if it finds that the request for the district was filed after construction has started.

Some people believe that the Port Huron facility should be taxed as if the industrial facilities exemption certificate had been

granted in October 2001 because the business owner relocated to the facility in reliance on the Development Alliance's assurance that it was located in an industrial development district and the company filed its request for a certificate in what would have been a timely manner.

CONTENT

The bill would amend the plant rehabilitation and industrial development districts Act to require that a facility located in an industrial development district owned by a person who applied for an industrial facilities exemption certificate in July 2001 for construction that was commenced in February 2001 in a district that was established in September 2001, be taxed under the Act as if the facility had been granted the certificate in October 2001.

Under the Act, except for an application for a speculative building, the legislative body of a local governmental unit may not approve an application and the State Tax Commission may not grant an industrial facilities exemption certificate unless the applicant complies with various requirements, which include the following for applications made after December 31, 1983:

-- The proposed facility must be located within a plant rehabilitation district or industrial development district that was duly established in an eligible local governmental unit upon a request filed, or by the local unit's own initiative taken, before the restoration, replacement, or construction of the facility commenced.

-- The restoration, replacement, or construction of the facility must not have commenced earlier than six months before the application for the industrial facilities exemption certificate was filed.

Additionally, except as otherwise provided, a request for the establishment of a proposed plant rehabilitation or industrial development district may be filed only in connection with a proposed replacement facility or new facility whose construction, acquisition, alteration, or installation has not commenced at the time the request is filed. The legislative body of a local governmental unit may not establish a plant rehabilitation or an industrial development district if it finds that the request for the district was filed after the commencement of construction, alteration, or installation of, or an acquisition related to, the proposed replacement facility or new facility.

The Act makes exceptions to these conditions for certain facilities.

Under the bill, the conditions also would not apply to a facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in July 2001 for construction that was commenced in February 2001 in a district that was established by the legislative body of the local governmental unit in September 2001. The certificate would have to expire as provided in the Act.

The facility would have to be taxed under the Act as if it had been granted an industrial facilities exemption certificate in October 2001. A corrected tax bill would have to be issued by the local tax collecting unit if it had possession of the tax roll or by the county treasurer if the county had possession of the tax roll.

If granting the industrial facilities exemption certificate resulted in the overpayment of the tax, a rebate, including any interest and penalties paid, would have to be made to the taxpayer by the local tax collecting unit or by the county treasurer within 30 days of the date the exemption was granted. The rebate would have to be without interest.

MCL 207.559

BACKGROUND

Under the Act, in a local unit that has established a plant rehabilitation and industrial development district, the owner or lessee of industrial property in the district may apply to the local unit for an industrial facilities exemption certificate. Upon approval by the local unit's legislative body, the application is forwarded to the State Tax Commission, which issues an industrial facilities exemption certificate if it determines that the facility conforms with the Act. The Act allows certificates to be issued for a combined total of 12 years for any one facility. The certificate exempts the facility (but not the land or inventory) from real and personal property taxes, and makes it subject to a specific industrial facilities tax. For a new facility, the specific tax is 50% of what the property tax otherwise would be, plus the State education tax. For a replacement facility, the specific tax essentially is the amount that property taxes would be based on the value of the facility before renovation.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would offer the affected company, Pro-Weld, the opportunity to receive the tax relief company officials believed it would receive when it moved to Port Huron. The company evidently was recruited to site its operations in Port Huron with the understanding that the facility was located on property that was within the city's industrial development district and that the facility would be eligible for an industrial facilities exemption certificate. Pro-Weld should be taxed under the Act as if the facility had been granted the certificate in October 2001, the month after the district was expanded to include the Pro-Weld facility, because its failure to comply with the Act was the result of a mistake by the Economic Development Alliance of St. Clair County and not the company.

Opposing Argument

The Act was designed to encourage economic development, not reward an existing business with tax breaks. Granting an industrial facilities exemption in a case

where the company started work on a facility before it was included in an industrial development district would run counter to the Act's goal of encouraging new development in existing districts. Pro-Weld might have been misled as to the facility's location within an existing district, but the district boundaries are a matter of public record easily could have been verified.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bill would reduce State and local unit revenue. Assuming the new certificate would be for a new facility, the bill would reduce revenue from the property by 50%. The impact on the State education tax would depend whether 0, 3, or all 6 mills of the tax were abated under the certificate. Any reduction in local school district revenue for the 18 mills levied for operating purposes would be offset by increased expenditures from the School Aid Fund in order to maintain per-pupil funding guarantees.

The magnitude of the impact would depend upon the characteristics of the property affected, but based upon data from the city in which it is located, the impact would be approximately \$60,000 per year if all 6 mills of the State education tax were included in the certificate. Approximately 11% of the impact (\$6,500 per year) would reduce revenue to the School Aid Fund if the full 6 mills were included in the certificate, while roughly 33% (\$20,000 per year) would represent a loss of operating mills to the school district and would be offset by increased spending from the School Aid Fund. The remaining impact would affect other local units of government. However, because the bill would reduce taxes that already were paid in previous fiscal years, it is unclear how the impact of the bill would be distributed. The potential refunds from the previous four tax years would total approximately \$240,000, to be paid during FY 2005-06 by the local tax collecting unit, although the local tax collecting unit retained only about 30% of the revenue that was collected over that period. This estimate is preliminary and will be revised as new information becomes available.

Fiscal Analyst: David Zin

A0506\579a

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.