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BILL ANALYSIS

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Senate Bill 974 (Substitute S-2)
Sponsor: Senator Randy Richardville
Committee: Commerce and Tourism

(as enacted)

Date Completed: 6-3-08

CONTENT

The bill would amend the Commercial Redevelopment Act to do all of the following:

- Allow new tax exemptions under the Act to be granted until December 31, 2020.**
- Revise the formula for determining the commercial facilities tax assessed on property within a commercial redevelopment district.**
- Allow the State Treasurer to exclude, for up to six years, up to half of the mills levied under the State Education Tax (SET) Act from the calculation to determine the commercial facilities tax under certain circumstances.**
- Limit to 25 each year the number of SET exclusions described above that the State Treasurer could grant.**
- Include hotel or motel development in the Act's definition of "commercial property" and revise the definitions of certain other terms, beginning July 1, 2008.**

The bill is tie-barred to Senate Bill 976. As passed by the Senate, that bill would amend the Neighborhood Enterprise Zone (NEZ) Act to include in the definition of "new facility", eligible for a tax break, a new structure or a portion of a new structure that is rented or leased or is available for rent or lease, is a mixed use building or located in a mixed use building that contains retail business space on the street level floor, and is located in a qualified downtown revitalization district.

New Exemptions

The Commercial Redevelopment Act allows a local governmental unit to establish a commercial redevelopment district. A facility located in a district is exempt from the general property tax and is subject instead to a specific tax, the commercial facilities tax. The Act prohibits a new exemption from being granted under the Act after December 31, 1985, but specifies that an exemption then in effect may continue until the expiration of the exemption certificate (which may not exceed 12 years). The bill instead would prohibit a new exemption from being granted after December 31, 2020.

Commercial Facilities Tax Formula

Currently, the amount of the commercial facilities tax for a new or replacement facility is determined by multiplying the facility's State equalized valuation (SEV), excluding the land and eligible personal property assessed under the General Property Tax Act, by the sum of one-half of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located, other than mills levied for school operating purposes by a local

or intermediate school district or mills levied under the SET Act, plus one-half the number of mills levied for school operating purposes in 1993. Under the bill, the tax would be determined by multiplying the facility's taxable value, excluding the land and eligible personal property assessed under the General Property Tax Act, by the sum of one-half of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility was located, other than mills levied under the SET Act, plus (subject to the State Treasurer's authority to exclude half of the SET mills) the number of mills levied under the SET Act.

Currently, the amount of the commercial facilities tax for a restored facility is determined by multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located by the SEV of the obsolete commercial property for the tax year immediately preceding the commercial facilities exemption certificate's effective date after deducting the SEV of the land and personal property, excluding the land and eligible personal property assessed under the General Property Tax Act. Under the bill, the formula would refer to taxable value rather than SEV, and would use the taxable value of the real property of the obsolete commercial property.

Under the Act, for intermediate school districts (ISDs) receiving State aid under sections 56, 62, and 81 of the State School Aid Act, of the amount that otherwise would be disbursed to an ISD, all or a portion, to be determined on the basis of the tax rates being used to compute the amount of State aid, must be paid to the State Treasury to the credit of the State School Aid Fund. If the sum of any commercial facilities taxes and industrial facility taxes prescribed under the plant rehabilitation and industrial development Act (commonly referred to as P.A. 198), paid to the State Treasury to the credit of the School Aid Fund, that otherwise would be disbursed to the local or school district or ISD, exceeds the amount received by the local district or ISD, the Department of Treasury must allocate to each eligible local district or ISD an amount equal to the difference. Under the bill, these provisions would not apply to taxes levied for either of the following:

- Mills allocated to an ISD for operating purposes as provided under the Property Tax Limitation Act.
- An ISD that was not receiving State aid under section 56 or 62 of the State School Aid Act.

(Sections 56 and 62 of the State School Aid Act provide for reimbursement to ISDs that levy millage for special education or vocational-technical education programs, respectively. Section 81 provides for allocations to ISDs that must be used to comply with the Act and the Revised School Code and provide technical assistance to districts.)

Treasurer's Authority to Exclude SET

The bill specifies that, within 60 days after the granting of a new commercial facilities exemption certificate for a new or a replacement facility, the State Treasurer could, for a period of up to six years, exclude up to one-half of the number of mills levied under the SET Act from the specific tax calculation on the facility, if the State Treasurer determined that doing so was necessary to reduce unemployment, promote economic growth, and increase capital investment in qualified local governmental units. The State Treasurer could grant up to 25 such exclusions each year.

Definitions

Currently, "commercial property" includes office, engineering, research and development, warehousing parts distribution, retail sales, and other commercial facilities. The bill also would include hotel or motel development. (The term does not include land; property of a

public utility; housing, except that portion of a building containing nonhousing commercial activity; or a financial organization.)

Under the bill, the current definitions of "local governmental unit", "new facility", and "replacement facility" would apply through June 30, 2008.

Currently, "local governmental unit" means a city, village, or township. For local governmental units designating a commercial redevelopment district after June 30, 2008, local governmental unit would mean a city or village.

"New facility" means a new commercial property other than a replacement facility to be built in a redevelopment district. Beginning July 1, 2008, "new facility" would mean new commercial property, other than a replacement facility to be built in a redevelopment district, that is located on property zoned to allow for mixed use that includes high-density residential use, and is located in a "qualified downtown revitalization district" as defined in the NEZ Act (as it would be amended by Senate Bill 976). Also, the local governmental unit in which the facility was to be located would have to establish and implement an expedited local permitting and inspection process in the commercial redevelopment district and by resolution provide for walkable, nonmotorized interconnections including sidewalks and streetscapes throughout the commercial redevelopment district.

"Replacement facility" means commercial property on the same or contiguous land within the district that is, or is to be, acquired, constructed, altered, or installed for the purpose of being substituted for obsolete commercial property together with any part of the old altered property that remains for use as commercial property after the replacement. Beginning July 1, 2008, "replacement facility" would mean commercial property on the same or contiguous land within the district that is or is to be acquired, constructed, altered, or installed for the purpose of being substituted for obsolete commercial property and any part of the old altered property that remains for use as commercial property after the replacement, that meets all of the following:

- Is located on property that is zoned to allow for mixed use, including high-density residential use.
- Is located in a qualified downtown revitalization district, as defined in the NEZ Act (under Senate Bill 976).
- The local governmental unit establishes and implements an expedited local permitting and inspection process in the commercial redevelopment district and by resolution provides for walkable, nonmotorized interconnections, including sidewalks and streetscapes throughout the commercial redevelopment district.

(Under Senate Bill 976, as passed by the Senate, "qualified downtown revitalization district" would mean an area located within the boundaries of one or more of the following:

- A downtown district, as defined in the downtown development authority (DDA) Act.
- A principal shopping district or a business improvement district as defined in the principal shopping district Act.
- An area of the local unit zoned and primarily used for business, as determined by the local governmental unit.)

MCL 207.653 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would reduce State and local property tax revenue, and increase School Aid Fund expenditures, by an unknown amount. The bill's impact would depend upon the specific characteristics of properties that received a certificate, as well as the number of properties that

were affected. School aid expenditures would be increased to the extent the bill reduced local school operating revenue, in order to maintain per pupil funding guarantees. While local property tax revenue would decline, and School Aid Fund expenditures increase, only if the property still would be altered absent the bill, State education tax revenue would decrease in an absolute sense because the bill would allow abatements of the tax against the existing tax base.

Many types of property affected by the bill potentially would be eligible for tax preferences created under the Obsolete Property Rehabilitation Act and/or the Brownfield Redevelopment Financing Act. To the extent that the property otherwise would be covered by these provisions absent the bill, the fiscal impact of the bill could be mitigated somewhat.

Fiscal Analyst: David Zin

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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.