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BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

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Senate Bill 376

Sponsor: Senator Christopher D. Dingell

Committee: Natural Resources and Environmental Affairs

Date Completed: 4-18-88

SUMMARY OF SENATE BILL 376 as introduced 6-23-87:

Senate Bill 376 would create the "Environmental Contamination Rehabilitation Act" to establish environmental contamination rehabilitation districts and to do all of the following:

- Outline the procedure and requirements for application for an environmental rehabilitation exemption certificate.
- Authorize tax exemptions for certificate recipients.
- Require cleanup reporting and authorize certificate revocation and penalty imposition.
- Specify requirements of local assessors relative to land for which an exemption certificate was issued.
- Make other provisions regarding certificate transfers, appeals, liability, and rules.

Environmental Contamination Rehabilitation Districts

The bill would authorize a local unit of government to establish, by a resolution of its legislative body, an environmental contamination rehabilitation district. A district could consist of all or part of one or more parcels of property and would have to be identified as a site of environmental contamination under the Environmental Response Act. The legislative body could establish a district on its own initiative or upon a written request of the owner or owners of property located within a proposed district. A written request would have to be filed with the local governmental unit's clerk.

Before it adopted a resolution to establish a district, the legislative body would have to give written notice, by certified mail, to the owners of all real property within the proposed district and hold a public hearing on the establishment of the district. At such a hearing, any of those property owners, or any other residents or taxpayers of the local unit would have the right to appear and testify.

Exemption Certificate Application

After the establishment of an environmental contamination rehabilitation district, an owner or lessee of property located within the district could apply for an environmental rehabilitation exemption certificate with the local clerk. The application would have to be filed in a manner and form prescribed by the State Tax Commission and the Department of Natural Resources (DNR). The application would have to contain or be accompanied by a plan for the removal of contaminants from the property and cleanup activities, including an estimated cost, a time schedule, and standards regarding the quantity of contaminants to be removed.

Upon receipt of an application, the clerk would be required to notify the assessor of the local assessing unit where the

property was located and the legislative body of each taxing unit that levied property taxes in the local unit where the district was located. The clerk also would have to submit a copy of the required plan to the DNR for approval. The DNR then would have to review the plan, evaluating the "appropriateness and feasibility" of the cleanup activities. Within 60 days after receipt of the plan, the DNR would have to approve or disapprove the plan, and provide the reason for a disapproval in writing to the local unit.

Before acting on the exemption application, the legislative body would have to give an opportunity for a hearing to the applicant, the assessor, a representative of the affected taxing units, or a member of the public. Notice of such a hearing would have to be provided at least seven days before the date of the hearing. The legislative body would have to pass a resolution of approval or disapproval within 30 days after receipt of the DNR's approval of the plan. If the DNR did not approve the plan or if a court previously ordered removal of contaminants from the property, the legislative body would be prohibited from approving the application. If the application were disapproved, the reasons would have to be set forth in writing within the resolution and the clerk would have to return the application to the applicant. If the application were approved, the clerk would have to forward the application to the Tax Commission. An applicant could appeal a disapproval to the Commission within 10 days after the date of the disapproval.

In a resolution of approval, a local unit's legislative body would have to set forth a determination that granting the exemption certificate would not have "the effect of substantially impeding" the local governmental unit's operation or of "impairing the financial soundness" of a taxing unit that levied property tax in the local unit in which the property was located. If the State equalized valuation (SEV) of property that would be exempt under an application, considered together with the aggregate SEV of property exempt under certificates that were previously granted and currently in force, exceeded 5% of the SEV of the local unit, the Tax Commission, with the approval of the State Treasurer, would have to make a finding that exceeding that amount would not "substantially impede" the operation of the local unit or "impair the financial soundness" of an affected taxing unit.

Within 60 days after the receipt of an approved application or an appeal of a disapproved one, the Commission would have to determine whether the provisions of the bill were met. If so, the Commission would have to issue an environmental rehabilitation exemption certificate. The certificate's effective date would be the December 31 following the date of issuance.

The certificate would have to be sent to the applicant by certified mail, and a copy would have to be sent to the local assessor by certified mail. Another copy would have to be filed on record in the assessor's office. Notice of refusal by the Commission would have to be sent to the same persons in the same manner.

An environmental rehabilitation exemption certificate would have to be in a form determined by the State Tax Commission, but would have to contain all of the following:

- A legal description of the real property.
- A statement that unless revoked, the certificate would remain in force for the period stated in the certificate.
- The length of the exemption.

Unless revoked, an exemption certificate would remain in effect for a period of not more than 12 years to be determined by the local unit's legislative body.

Tax Exemptions

The bill specifies that property for which an environmental rehabilitation exemption certificate was in effect would be exempt from real and personal property taxes imposed under the General Property Tax Act beginning on the effective date of the certificate and continuing as long as the certificate was in force. A lessee, occupant, user, or person in possession of the property would be exempt from taxes imposed under Public Act 189 of 1953 for the same period. The total amount of exempt taxes, however, could not exceed the amount of the estimated cost of the cleanup activities included in the plan required by the bill.

Reporting, Revocation, and Penalties

Under the bill, a holder of an exemption certificate would have to report annually to the DNR on the progress of cleanup activities by submitting an updated version of the plan required by the bill for certificate application. The following would have to be included in such an update:

- The costs incurred to date for cleanup.
- The cleanup activities that were completed, in progress, and planned.
- Any other information considered appropriate by the DNR.

The DNR would have to report the certificate-holder's progress to the local governmental unit.

By resolution, the local unit's legislative body could request that the Tax Commission revoke the exemption certificate on the grounds that completion of the cleanup activities had not occurred in an adequate manner or that the holder had not proceeded with the cleanup in good faith in the absence of circumstances beyond the holder's control. Upon receipt of such a resolution, the Commission would have to give written notice by certified mail to the holder of the certificate, the local unit's legislative body, the appropriate assessor, the DNR, and the legislative body of each local taxing unit that levied taxes upon property in the local unit in which the property was located. The Commission would have to give each the opportunity for a hearing and, by order, revoke the certificate if it found that completion of the cleanup activities had not occurred in an adequate manner or that the holder had not proceeded with the cleanup in good faith in the absence of circumstances beyond the holder's control.

An order revoking a certificate would be effective on the December 31 following the date of the order. The Commission would have to send copies of the revocation order, by certified mail, to the same persons who were

sent the resolution. If a certificate were revoked because a holder had not proceeded in good faith absent circumstances beyond the holder's control, the local unit could impose a penalty equal to the amount of taxes that would have been paid had the property not been exempt since the issuance of the certificate plus interest at the rate provided for delinquent taxes under the General Property Tax Act minus the amount of actual costs incurred for cleanup activities prior to revocation. The Commission would have to revoke a certificate upon receipt of a request from its holder.

Assessments

An assessor in a city or township in which an exemption certificate was in force annually would have to determine, with respect to each parcel of property, an assessment of the real and personal property exempt under the certificate that would have been made under the General Property Tax Act if the certificate had not been in force. A holder of a certificate would have to furnish information necessary for that determination. The assessor would have to give annual notice of the assessment to the Tax Commission, the legislative body of each local governmental unit that levied taxes upon property in the city or township in which the property was located, and the holder of the certificate, separately stating the determination for real and personal property. The notice would have to be sent by certified mail no later than October 15 and would have to be based on valuations as of the preceding December 31.

The assessor annually would have to determine, as of December 31, the value of each parcel of property exempted under a certificate, for both real and personal property. Upon receipt of notice of the filing of an application for a certificate, the assessor would have to determine and tell the local legislative body and the Tax Commission the value of the property in question.

Transfers, Appeals, Liability, and Rules

The bill would allow an environmental rehabilitation exemption certificate to be transferred and assigned by the holder to a new owner or lessee of the property. A certificate could only be transferred, however, with the approval of the local governmental unit and the Tax Commission after application by the new owner or lessee, and notice and hearing in the same manner as provided in the bill for a new applicant.

Any party aggrieved by the issuance or refusal, revocation, or transfer of an exemption certificate could appeal from the finding and order of the Commission in the manner and form and within the time provided for by the Administrative Procedures Act.

The bill specifies that it could not be construed to relieve an owner of property subject to an environmental rehabilitation exemption certificate from liability for environmental contamination.

The bill would authorize the Tax Commission to promulgate rules it considered necessary for the administration of the bill.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would result in an indeterminate reduction in local property tax revenue. The number of environmental rehabilitation exemption certificates that would be granted under the bill is not known. Assuming it may cost \$900,000,000 to clean up 1,700 Act No. 307 (the

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Environmental Response Act) sites and the cost is spread over 12 years, the maximum lost local tax revenue would be \$75,000,000 per year.

A portion of the lost property tax revenue would be reimbursable by the State through the school aid formula for "in-formula schools".

Fiscal Analyst: A. Rich
Fiscal Analyst: N. Khouri

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.