House
Legislative
Analysis
Section

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PA 198: FEES/TIME LINE

House Bill 5357 as enrolled
Public Act 323 of 1996
Second Analysis (7-10-96)

Sponsor: Rep. Robert Brackenridge
House Committee: Tax Policy
Senate Committee: Local, Urban and State Affairs

THE APPARENT PROBLEM:

Under the plant rehabilitation and industrial development act, commonly known as PA 198, local units of government can provide new, renovated, or expanded industrial facilities with a 50 percent tax abatement for up to 12 years. The decision is made by a city or township governing body but the abatement applies to property taxes levied by other units, such as school districts, intermediate school districts, and counties. Although the statute does not address it, some local units charge an application fee to companies seeking a tax exemption. In one instance, in the city of Kentwood, the municipality has worked out an arrangement with companies whereby they pay a service fee equal to the amount of city taxes abated over the length of the agreement. This means the city is, essentially, abating the property taxes of other local taxing units (schools, county, etc.) while retaining its own tax revenues. Officials from the city defend this practice, in part, by arguing that the revenue from the fee is applied to the public infrastructure needs of businesses. Officials also note that the city has a very low millage rate (of less than six mills). Some people believe this practice violates the intent of the act and should not be permitted.

Under Public Act 198, if a local legislative body approves an application for an exemption certificate, the local clerk forwards it to the state tax commission, which has 60 days to decide if the application and facility conform with the act. The act currently provides no deadline for local units to forward approved applications, say tax specialists, and they tend to send them to the state in a bunch at the end of October in order to give the tax commission the 60 days to act before the end of the calendar year. An earlier deadline has been suggested.

THE CONTENT OF THE BILL:

The bill would amend the plant rehabilitation and industrial development act (Public Act 198 of 1974), under which industrial facilities can obtain property tax abatements, to specify that a local governmental unit can charge an applicant for an industrial facilities exemption certificate an application fee but that the fee cannot exceed the actual cost of processing the application or two percent of the total property taxes abated for the term of the certificate, whichever is less. A local unit could not charge an applicant any other fee under the act.

Under the act, if a local legislative body approves an application for an exemption certificate, the local clerk forwards it to the state tax commission. If it is disapproved, the application is returned to the applicant who can then appeal the disapproval to the state tax commission within 10 days after the date of disapproval. The bill would require that the local clerk forward an approved application within 60 days of approval or before October 31, whichever is first, in order to receive the exemption certificate effective for the following year.

MCL 207.555

FISCAL IMPLICATIONS:

The House Fiscal Agency has described the revenue impact on state and local government as indeterminate. The HFA points out: "According to the Bureau of Local Government Services, Michigan Department of Treasury, the current practice of many local units (though not all) is to levy a fee to process an industrial facilities exemption certificate. Because there has been no uniform approach, some local units may be required to levy lower fees while others may increase fee rates or begin to levy application fees for the first time." (HFA fiscal note dated 1-22-96)

ARGUMENTS:

For:

The bill would require that a fee charged to an applicant for a industrial facilities exemption certificate under Public Act 198 of 1974 not exceed the actual cost of processing the application or two percent of the total

taxes abated, whichever is less. This would put an end to the practice, found in at least one community, of using a fee to replace revenue the municipality would lose in granting the abatement. In that case, the city granting the abatement is replacing its own lost revenue while at the same time abating taxes that would otherwise flow to other taxing units, such as the schools and the county. This is contrary to the intent of the law and is an affront to the taxing units that have little or no say over the abatement but that lose revenue based on the decision of a unit that is essentially held harmless. Indeed, this practice could even be extended (under current law) so that the unit granting the industrial abatement charges a fee in excess of its lost tax revenue, essentially capturing the revenue of other units.

Against:

Defenders of Kentwood's practice of recouping its abated tax revenue through a service fee say that the city has not violated the law but operated within the law as the legislature has written it. The arrangement that the city has entered into with businesses is part of an effort to use its local authority to promote economic development. This practice has overcome objections citizens and local officials had to abating city taxes, objections based partly on the fact that the city's millage rate is so low and that it is the city (and not other affected units) that provides the most direct services to the businesses in question. The city, according to testimony by the mayor, has used revenue from the service fee to provide public services to the business sector. This should be seen as an issue of local control and local innovation.

For:

The bill would require local units to forward their approved exemption applications to the state tax commission in a timely manner to avoid the practice of bunching up applications at the last minute. This will reduce the end-of-year administrative burden on the state tax commission.

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.