Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5357 (Substitute H-2 as reported with amendments)
Sponsor: Representative Robert Brackenridge
House Committee: Tax Policy
Senate Committee: Local, Urban and State Affairs

Date Completed: 3-11-96

RATIONALE

Under the Plant Rehabilitation and Industrial Development Districts Act, local units of government may establish plant rehabilitation districts and industrial development districts, and provide a property tax abatement for up to 12 years to new, renovated, or expanded industrial facilities in a district. Eligible facilities are exempt from the general property tax and instead pay an industrial facilities tax, which essentially amounts to a 50% tax abatement. Once a district is established, the owner or lessee of a facility may apply for an industrial facilities exemption certificate to the local unit that established the district, which must approve or disapprove the application. The local unit must send approved applications to the State Tax Commission, and applicants may appeal disapprovals to the Commission. The Commission then has 60 days to determine whether a facility complies with the Act.

Two concerns about this process have been raised. First, in the absence of statutory permission or prohibition, some local units apparently have been imposing a fee to process applications. In particular, the City of Kentwood evidently charges a service fee equal to the amount of city taxes abated over the length of the exemption certificate, which in effect exempts a facility from all property taxes except those imposed by the city. Some people feel that this goes against the grain of the Act, and that application fees should be limited by law.

The second concern involves the requirement that local units forward approved applications to the State Tax Commission. Reportedly, many local units wait until the end of the year to do so, which gives the Commission little time to conduct its review before the year ends. To spread the Commission's workload more evenly throughout the year, it has been suggested that local units should be required to forward approved applications within a certain time after approval.

CONTENT

The bill would amend the Plant Rehabilitation and Industrial Development Districts Act to limit the application fee charged by a local unit of government, and to require a local unit to forward an application to the State Tax Commission within a certain time.

The bill specifies that a local unit could charge an applicant an application fee to process an application for an industrial facilities exemption. The fee could not exceed 3% of the total property taxes abated under the Act for the term that the certificate was in effect. A local unit could not charge an applicant any other fee under the Act.

The bill also would require the clerk of a local unit to forward an approved application to the State Tax Commission within 60 days of approval or before October 31 of that year, whichever was first, in order to receive the certificate effective for the following year.

The Act provides that, within 60 days after receiving an approved application or an appeal of a disapproved application, the Commission must determine whether the facility is a speculative building or designed and acquired primarily for the purpose of restoration or replacement of obsolete industrial property or the construction of new industrial property, and whether the facility otherwise complies with the Act. The bill would require the Commission to make these

determinations within 60 days after receiving an approved application or an appeal of a disapproved application that was submitted to the Commission before October 31 of that year.

MCL 207.555-207.557

SENATE COMMITTEE ACTION

The Senate Local, Urban and State Affairs Committee adopted amendments to limit the application fee to 3% of total property taxes abated. The House-passed version provided that the fee could not exceed 3% of total property taxes abated or the actual cost incurred by the local unit in processing the application, whichever was less.

The House-passed version also provided that an applicant could appeal a disapproval to the State Tax Commission within 10 days after the date of the disapproval "if the appeal is filed with the commission before October 31 of that year". A Senate Committee amendment removed the October 31 deadline.

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 Act was designed to encourage the restoration of obsolete industrial property and the development of new industrial property, by providing tax exemptions for eligible facilities in locally established districts. Once a local unit grants a tax abatement to a facility, the facility is exempt from property taxes charged by all taxing authorities. Although a local unit, before approving an application, must give other assessing units notice and an opportunity for a hearing, one local unit ultimately makes a decision that may affect a number of other jurisdictions. If a local unit believes that it cannot afford to grant an exemption from its own taxes, it is not fair to deny property tax revenue to other units while recouping its own loss through an application fee, service fee, or any other charge. The bill would put an end to this practice by limiting an application fee to 3% of the total taxes abated, and prohibiting local units from charging other fees under the Act.

Supporting Argument

By requiring local units to forward approved applications to the State Tax Commission within 60 days of approval or before October 31, the bill would enable the Commission to conduct its review throughout the year, rather than all at once at the end of the year. If an application were forwarded after October 31, the exemption would not be in effect for the following year.

Opposing Argument

By limiting the application fee a local unit could charge, the bill would interfere with the authority of local units to grant or deny an abatement. Kentwood's practice of charging a service fee was the result of an arrangement between the city and businesses to overcome objections that citizens and local officials had to abating city taxes. Reportedly, the objections were based partly on the fact that the city's millage is quite low and the city provides most direct services to the businesses in question. The revenue from the service fee has been used for economic development and infrastructure purposes--not the city's general fund. This is a matter of local control and local innovation.

Opposing Argument

Although the bill is designed to prevent local units from charging excessive application fees, the proposed maximum of 3% could generate a rather sizable fee in some cases, since it would be a percentage of all taxes abated over the entire length of an exemption certificate. A local unit's actual cost of processing an application could be considerably less.

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would limit the application fees charged by local units. The fees charged by some local units would decrease or increase, depending on the amount the local units presently charge.

The bill would have no fiscal impact on the State.

Fiscal Analyst: R. Ross

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