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LAUNDRIES: SALES & USE TAXES

House Bills 5212 and 5213 as enrolled Public Acts 365 and 366 of 1998 Second Analysis (11-2-98)

Sponsor: Rep. Kirk A. Profit
House Committee: Tax Policy
Senate Committee: Finance

THE APPARENT PROBLEM:

Representatives of commercial laundries, who supply clean linens such as tablecloths, sheets, towels, uniforms, aprons, and rugs to customers, argue that they are at a competitive disadvantage with competitors in neighboring states. Michigan laundry operations say they must pay the sales or use tax on the textiles and related supplies they purchase to service their customers, but their competitors in Ohio do not under their state law. They say that in Ohio, transactions between laundries and their customers are subject to a sales tax but that the laundries do not have to pay tax on the products they purchase. This means that an Ohio laundry that does business in Michigan neither pays tax when it purchases the textiles it intends to supply to customers nor collects tax when delivering clean laundry to its Michigan customers. So, the Ohio laundry has a competitive advantage in bidding for business in Michigan. At the same time, a Michigan laundry doing business in Ohio pays either a sales or use tax on its textiles (depending on whether it purchases them in-state or out of state) and must collect the Ohio sales tax from its Ohio customers. So, Michigan laundries are at a competitive disadvantage when operating in Ohio. (Apparently, the same situation occurs with Indiana competitors.) In Michigan, laundering textiles is considered a service and is not taxed. The exemption from sales and use taxes for industrial processors is for firms that transform or modify property for sale at retail. Industrial laundries, however, either work with property owned by others or property they themselves own and lease to others, and so do not qualify for the industrial processing exemption. Michigan laundries have requested legislation that will "level the playing field" so that they can compete fairly with firms in Ohio and Indiana.

THE CONTENT OF THE BILLS:

The bills would exempt from the sales and use taxes the following when sold or leased to or used or consumed by an industrial laundry after December 31, 1997:

- textiles and disposable products including, but not limited to, soap, paper, chemicals, tissues, deodorizers and dispensers, and all related items such as packaging, supplies, hangers, name tags, and identification tags;
- equipment, whether owned or leased, used to repair and dispense textiles including roll towel cabinets, slings, hardware, lockers, mop handles and frames, and carts;
- machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items, whether owned or leased;
- utilities, such as electric, gas, water, or oil;
- production washroom equipment and mending and packaging supplies and equipment;
- material handling equipment, including conveyors, racks, and elevators and related control equipment; and
- wastewater pre-treatment equipment and supplies and related maintenance and repair services.

House Bill 5212 also would make subject to the sales tax the sale of tangible personal property by an industrial laundry under a sale, rental, or service agreement with a term of at least five days, and House Bill 5213 would make subject to the use tax the

laundering or cleaning of textiles under a sale, rental, or service agreement with a term of at least five days. (The use tax provision would take effect after December 31, 1998.) The use tax provision would not apply to the laundering or cleaning of textiles used by a restaurant or retail sales business. The term "textiles" would be defined to refer to goods that are made of or incorporate woven or non-woven fabric, including clothing, shoes, hats, gloves, handkerchiefs, curtains, towels, sheets, pillows, pillowcases, tablecloths, napkins, aprons, linens, floor mops, floor mats, and thread. The term also would include materials used to repair or construct textiles, or other goods used in the rental, sale, or cleaning of textiles.

A claim for a refund under the bills for persons who launder or clean textiles would have to be filed not later than 90 days after the effective date of the bills.

House Bill 5212 would amend the General Sales Tax Act (MCL 205.51 et al.) and House Bill 5213 would amend the Use Tax Act (MCL 205.92 et al.)

FISCAL IMPLICATIONS:

The House Fiscal Agency and the Senate Fiscal Agency have estimated that similarly worded bills would result in a revenue loss of \$1 million per year. (See HLAS analysis dated 11-12-97 and SFA analysis dated 6-19-98)

ARGUMENTS:

For:

The bills aim at allowing commercial laundry operations based in Michigan to compete on an even basis with similar operations in neighboring states. Without this kind of exemption, Michigan companies are at a competitive disadvantage, particularly in southeastern and southwestern Michigan, where there are large markets close to the state border. If they cannot compete, business will suffer and jobs will be lost. Industry representatives have provided information indicating that they have lost well over \$1 million in annual revenue to out-of-state competitors during the last three years. The bills would grant industrial laundries an exemption from sales and use taxes similar to that industrial processors currently receive under tax statutes. The laundering of textiles would, however, be subject to tax.

Against:

This is a significant exception to current tax practices and it singles out one kind of enterprise for special treatment. Further, in order to fully compare the tax treatment of Michigan laundry operations and their competitors in other states, it would be necessary to know the complete tax structures of the two states and not just the treatment of laundries under the sales and use taxes. This special tax exemption will result in a loss of revenues that otherwise would go to schools. Further, the bills appear to impose a tax on a service, which is a departure from the typical application of the sales and use taxes in the state and may prove to be an unwise precedent.

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.