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BILL ANALYSIS

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House Bill 4621 (Substitute H-2 as passed by the House)

Sponsor: Representative Randy Richardville

House Committee: Commerce

Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 11-27-01

CONTENT

The bill would amend the Neighborhood Enterprise Zone Act to revise the eligibility criteria for communities that may establish an enterprise zone, in which property owners may qualify for tax relief under the Act. The bill would do all of the following:

- Repeal a section of the Act that prohibits the issuance of a neighborhood enterprise zone certificate after December 31, 2002.**
- Replace the Act's current definition of "local governmental unit" with the definition of "qualified local governmental unit" as that term is defined under the Obsolete Property Rehabilitation Act, which deals with brownfield redevelopment.**
- Revise the definitions of "new facility" and "rehabilitated facility" to include a portion of a new or rehabilitated facility, increase the maximum allowable value of a rehabilitated facility, and allow improvements done by an owner to qualify under the criteria for a rehabilitated facility.**
- Revise the maximum allowable acreage of a local governmental unit's neighborhood enterprise zone, and delete a provision allowing a local unit to limit one or more zones to new facilities.**
- Delete a requirement that an owner of a new facility submit an affidavit affirming that the facility is occupied by the owner as a principal residence and require, instead, that a neighborhood enterprise zone certificate for a new facility be automatically revoked if the facility were no longer a "homestead", as defined in the General Property Tax**

Act.

- Require the State Tax Commission to revoke a certificate if the governing body of a local unit determined that a new or rehabilitated facility was not in compliance with local codes.**
- Base the neighborhood enterprise zone tax on a formula that would include a facility's taxable value, rather than its State equalized valuation (SEV).**

Eligible Communities

The Act allows eligible local governmental units to designate neighborhood enterprise zones, within which the owner or developer of property may receive a neighborhood enterprise zone certificate that exempts new or rehabilitated housing from the property tax and subjects it, instead, to a specific neighborhood enterprise zone tax.

Currently, for purposes of the Act, "local governmental unit" means a city, township, or village that meets all of the applicable following criteria at the time of certification by the Michigan Enterprise Zone Authority; or a city that meets three or more of the applicable following criteria and that has the largest population of the cities within a metropolitan statistical area at the time of certification. For a city, the criteria are that it:

- Has a population of 10,000 or more according to the most recent Federal decennial census.
- Had an average annual unemployment rate of 8% or more, during the most recent calendar year for which data are available, or had a total millage rate of 84 or more mills levied in the most recent property tax levy.

- Had a total millage rate of 63.3 mills or more levied in the most recent property tax levy, or levies a city income tax.
- Has a housing stock of which at least 60% of the units were built before 1960 as reported in the most recent census.
- Had an SEV percentage increase between 1970 and 1990 below 140%.
- Declined in population by more than 5% between 1970 and 1990.

For a village or township, the criteria are that it:

- Has a population of 5,000 or more according to the most recent Federal decennial census.
- Had an average unemployment rate of 17% or more during the most recent calendar year for which data are available.
- Had a total millage rate of 65 mills or more levied in the most recent property tax levy.
- Declined in population by more than 20% between 1970 and 1990.

The bill would delete that definition of local governmental unit and specifies instead that the term would mean a "qualified local governmental unit" as defined in the Obsolete Property Rehabilitation Act (MCL 125.2782). Under that Act, "qualified local governmental unit" means one or more of the following:

- A city with a median family income of 150% or less of the statewide median family income, as reported in the 1990 Federal decennial census, that meets one or more of the following criteria: 1) contains or has within its borders an "eligible distressed area" as that term is defined in the State Housing Development Authority Act; 2) is contiguous to a city with a population of 500,000 or more; 3) has a population of 10,000 or more that is located outside of an urbanized area as delineated by the U.S. Census Bureau; 4) is the central city of a metropolitan area designated by the U.S. Office of Management and Budget; or 5) has a population of 100,000 or more that is located in a county with a population of 2 million or more according to the 1990 Federal decennial census.
- A township with a median family income of 150% or less of the statewide median

family income, as reported in the 1990 Federal decennial census, that meets one or both of the following criteria: 1) is contiguous to a city with a population of 500,000 or more; or 2) contains or has within its borders an "eligible distressed area" as defined in the State Housing Development Authority Act and has a population of 10,000 or more.

- A village with a population of 500 or more, as reported in the 1990 Federal decennial census, that is located in an area designated as a "rural enterprise community" before 1998 under Title XIII of the Federal Omnibus Budget Reconciliation Act.
- A city that meets both of the following criteria: 1) it has a population of more than 20,000 or less than 5,000 and is located in a county with a population of 2 million or more, according to the 1990 Federal decennial census; and 2) as of January 1, 2000, had an overall SEV increase in real and personal property of less than 65% of the statewide average increase since 1972, as determined for the designation of eligible distressed areas under the State Housing Development Authority Act.

New and Rehabilitated Facilities

Under the Neighborhood Enterprise Zone Act, a "new facility" is a structure that has as its primary purpose residential housing consisting of one or two units, one of which is or will be occupied by an owner as his or her principal residence. The term includes a new individual condominium unit in a structure with one or more condominium units, that has as its primary purpose residential housing and that is or will be occupied by an owner as his or her principal residence. "New facility" does not include apartments. Under the bill, a new facility would include a portion of a new structure that met those criteria.

Under the Act, a "rehabilitated facility" is an existing structure with a current true cash value of \$60,000 or less per unit that has or will have as its primary purpose residential housing consisting of one to eight units, whose owner proposes improvements that, if done by a licensed contractor, would cost over \$5,000 per owner-occupied unit or 50% of the true cash value of the unit, whichever is less, or \$7,500 per nonowner-occupied unit or 50% of

the true cash value, whichever is less, and will bring the structure into conformance with minimum local building code standards for occupancy or improve the livability of the units while meeting minimum local building standards. The term includes an individual condominium unit, in a structure with one or more condominium units that has as its primary purpose residential housing, whose owner proposes the improvements described above. "Rehabilitated facility" does not include a facility rehabilitated with the proceeds of an insurance policy for property or casualty loss.

The bill would increase, from \$60,000 to \$80,000, the maximum per-unit true cash value in the definition of "rehabilitated facility". The bill also would include improvements done by the owner, and not a licensed contractor, if the cost of the materials would exceed \$3,000 per owner-occupied unit or \$4,500 per nonowner-occupied unit. Also, under the bill, a rehabilitated facility would include a portion of an existing structure that met the criteria for a rehabilitated facility.

Neighborhood Enterprise Zone Size Limitations

The Act allows the governing body of a local governmental unit to designate one or more neighborhood enterprise zones within that local unit. Other than a zone designated as limited to new facilities, a neighborhood enterprise zone may not contain fewer than 10 platted parcels of land. The total acreage of neighborhood enterprise zones designated strictly for new facilities may not exceed 1% of the local unit's total acreage. The bill would delete the authorization for a local unit to limit one or more zones to new facilities.

Under the bill, the total acreage of all neighborhood enterprise zones in a community could not exceed 15% of the local unit's total acreage. The bill would delete a provision limiting the total acreage of neighborhood enterprise zones, other than those limited to new housing, to 10% or 5% of a local unit's total acreage, or 500 acres, depending on the local unit's qualifying criteria. This language also provides that the limits may be increased or decreased, depending on reductions or increases in the millage rate levied by the local unit.

Affidavit

The bill would delete a requirement that the owner, or any subsequent owner, of a new facility annually submit to the local assessor an affidavit affirming that the new facility is occupied by the owner as a principal residence. The Act provides that the neighborhood enterprise zone certificate for a new facility is automatically revoked if the affidavit is not provided by November 1 of each year the certificate is in effect. The bill specifies, instead, that a certificate would be automatically revoked if the new facility no longer were a homestead as defined in the General Property Tax Act. (Under that Act, "homestead" means a dwelling or a unit in a multipurpose or multidwelling building that is subject to ad valorem taxes and is owned and occupied as the principal domicile by the owner.)

Compliance with Local Codes

The bill provides that, if a local unit's governing body determined that a new facility or a rehabilitated facility was not in compliance with any local construction, building, or safety codes and notified the State Tax Commission of the noncompliance by certified mail, the Commission would have to order the neighborhood enterprise zone certificate revoked.

Taxable Value

The Act levies on the owner of a new or rehabilitated facility to which a neighborhood enterprise zone certificate has been issued a specific tax known as the neighborhood enterprise zone tax. A new or rehabilitated facility for which a certificate is in effect, but not the land on which the facility is located, is exempt from ad valorem real property taxes under the General Property Tax Act. The amount of the neighborhood enterprise zone tax is determined each year by a formula that multiplies the SEV of the facility, not including the land, by factors specified in the Act. Under the bill, the formula's multiplier would be the taxable value of the facility, rather than the facility's SEV.

Repeal

Section 17 of the Act prohibits a new neighborhood enterprise zone certificate from

being issued after December 31, 2002, but does not invalidate a certificate that is issued or in effect. The bill would repeal that section.

MCL 207.772 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would reduce revenues to both the School Aid Fund and local units by an unknown amount. Between 1992 and 2000, approximately 1,400 exemption certificates were approved, of which 76.4% were issued by the City of Detroit. While 30 communities under current law are eligible to issue exemption certificates, only eight communities have actually participated in the program. In FY 2000-01, exemption certificates reduced State and local property tax revenues by approximately \$2.5 million, or approximately \$1,817 per property.

Exemption certificates are valid for 12 years, except under certain circumstances such as a change in the use of the property or failure to pay the tax. As new certificates would be issued, the effect of the bill would increase rapidly. Historically, nearly 200 exemption certificates have been issued per year. If the sunset provision were eliminated and the currently eligible units continued to issue exemption certificates at this rate, the impact of the bill would grow from a \$0.3 million reduction in State and local property tax revenues in FY 2003-04 to a \$2.4 million reduction by FY 2007-08.

The bill also would allow an additional 58 new communities to grant exemption certificates. If these new communities granted certificates at the same rate as the currently eligible communities do (200 per year), the impact of exemption certificates granted by newly eligible communities would grow from a \$0.3 million reduction in State and local property tax revenues in FY 2002-03 to a \$2.4 million reduction in FY 2006-07.

Under these assumptions, the bill would reduce State School Aid Fund revenues by \$30,000 in FY 2002-03, \$95,000 in FY 2003-03, and \$0.5 million in FY 2007-08, and would reduce local property tax revenues by \$250,000 in FY 2002-03, \$0.9 million in FY 2003-04, and \$4.9 million in FY 2007-08.

The estimates are very sensitive to participation in the program. If the newly eligible communities granted an additional 50 exemption certificates each year (for a total of 250 per year by the 58 communities), by FY 2004-05 the impact of the bill would be 10% greater. Because twice as many communities as are currently eligible would become eligible under the bill, if the newly eligible communities granted 400 exemption certificates per year, the bill would reduce School Aid Fund revenues by \$30,000 in FY 2002-03, \$140,000 in FY 2003-04, and \$0.8 million in FY 2007-08, and local property tax revenue by \$250,000 in FY 2003-04, \$1.1 million in FY 2003-04, and \$7.0 million in FY 2007-08. Greater participation would cause the impact of the bill to be even larger.

Fiscal Analyst: D. 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.