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**BILL ANALYSIS**

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House Bill 6025 (Substitute H-2 as passed by the House)

Sponsor: Representative Matt Milosch

House Committee: Tax Policy

Senate Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 6-30-04

CONTENT

The bill would amend the General Property Tax Act to exempt the real and personal property of a "qualified start-up business" from taxes levied under the Act after December 31, 2004, for up to five years if the business applied for the exemption and the governing body of the local tax collection unit or, for taxes levied by the county, the county board of commissioners, adopted a resolution approving the exemption.

A qualified start-up business could claim the exemption by filing an affidavit by May 1 in each tax year with the assessor of the local tax collecting unit. The affidavit would have to be in a form prescribed by the State Tax Commissioner and state that the qualified start-up business was eligible for and claimed the credit under Section 31a of the Single Business Tax Act (proposed by Senate Bill 862) for the applicant's last tax year ending before May 1.

The affidavit would have to include all of the following:

- A copy of the qualified start-up business's annual return filed under the Single Business Tax (SBT) Act in which the business claimed the qualified start-up business credit under Section 31a of that Act.
- A statement authorizing the Department of Treasury to release information contained in the qualified start-up business's annual SBT return, that pertained to the credit claimed under Section 31a.

If a qualified start-up business applied for an extension for filing its annual SBT return under Section 73 of the SBT Act, the business could claim the exemption after May 1 if all of the following conditions were met:

- The governing body of the local tax collecting unit, or for taxes levied by the county in which the qualified start-up business was located, the county board of commissioners adopted a resolution approving the exemption for all qualified start-up businesses applying for an extension under Section 73 of the SBT Act.
- The qualified start-up business submitted a copy of its application for an extension and the affidavit to the December board of review provided for in Section 53b of the General Property Tax Act. (For the purposes of Section 53b, an exemption granted under the bill would be considered a correction of a clerical error.)

By its last meeting in May of each tax year, the governing body of a local tax collecting unit could adopt a resolution approving the property tax exemption. The clerk of the local tax

collecting unit would have to give written notice to the assessor of the local tax collecting unit and the legislative body of each taxing unit that levied ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit would have to afford the assessor and a representative of the affected taxing units an opportunity for a hearing.

If the governing body of a local tax collecting unit did not adopt a resolution approving the exemption, the county in which the qualified start-up business was located could adopt a resolution approving the exemption for taxes levied by that county. A resolution approving the exemption could be for one or both of the following:

- One or more of the individual qualified start-up businesses that claimed the exemption by filing an affidavit by May 1 with the local tax collecting unit.
- All qualified start-up businesses that claimed the exemption after May 1, as provided above.

If the governing body of a local tax collecting unit adopted a resolution approving the exemption, each affected unit could, by resolution adopted within 45 days of the adoption of the resolution approving the exemption, deny the exemption for taxes levied by that taxing unit.

A qualified start-up business could not receive the exemption for more than a total of five tax years. A qualified start-up business could receive the exemption in nonconsecutive tax years.

If an exemption were erroneously granted, the tax rolls would have to be corrected for the current tax year and the three immediately preceding tax years. The property that had been subject to the exemption would have to be immediately placed on the tax roll as if it had never been granted the exemption. A corrected tax bill would have to be issued for the tax year by the taxing unit that had possession of the tax roll.

An owner who paid the corrected tax bill within 60 days after it was issued would not be liable for any penalty or interest on the additional tax. If the corrected tax bill were paid more than 60 days after it was issued, the owner would be liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

The real and personal property of a qualified start-up business would not be exempt from the collection of the following:

- A special assessment levied by the local tax collecting unit in which the property was located.
- Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit.
- A regional enhancement tax or sinking fund tax levied under Section 705 or 1212 of the Revised School Code.

As used in the bill, "qualified start-up business" would mean that term as defined in Section 31a of the Single Business Tax Act. (Under Senate Bill 862 (S-1), "qualified start-up business" would mean a business that had fewer than 25 full-time equivalent employees; had sales of less than \$1,000,000 in the tax year for which the credit was claimed; and was not publicly traded; also, research and development would have to make up at least 15% of its expenses in the tax year for which the credit was claimed.)

FISCAL IMPACT

The bill would decrease State School Aid Fund and local revenue by an unknown amount, depending on the number of exemptions issued under the conditions established in the bill and the specific characteristics of the property for which exemptions would be granted.

The bill also would increase School Aid Fund expenditures by an unknown amount. Any reduction in school property taxes or other revenue to schools under the bill would require greater School Aid Fund expenditures to bring affected school districts up to the guaranteed level of per pupil revenue.

Fiscal Analyst: David Zin