



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 579 (as enrolled)

**PUBLIC ACT 22 of 2006**

Sponsor: Senator Jud Gilbert, II

Senate Committee: Economic Development, Small Business and Regulatory Reform

House Committee: Commerce

Date Completed: 3-20-06

### **RATIONALE**

The plant rehabilitation and industrial development districts Act, commonly referred to as PA 198, allows local units of government, with the approval of the State Tax Commission, to grant industrial facilities exemption certificates to new and speculative buildings and replacement facilities located in an industrial development district. A certificate essentially grants a property tax abatement to an industrial facility, which is subject to an industrial facilities tax that is lower than standard property taxes.

Apparently, in February 2001, a company began renovating a Port Huron facility with the understanding that the facility was located within the city's industrial development district. The company applied for an industrial facilities exemption certificate in July 2001. Reportedly, the Economic Development Alliance of St. Clair County mistakenly told the company that the facility was located in the industrial development district. It was not actually located in the district and, therefore, was not eligible for an industrial facilities exemption certificate. The city's industrial development district was expanded to include the facility in September 2001. Under the Act, however, the industrial development district must have been established when the request for a certificate was filed. Additionally, a local unit of government may not establish a district if it finds that the request for the district was filed after construction has started.

Some people believe that the Port Huron facility should be taxed as if the industrial

facilities exemption certificate had been granted in October 2001 because the business owner relocated to the facility in reliance on the Development Alliance's assurance that it was located in an industrial development district and the company filed its request for a certificate in what would have been a timely manner.

### **CONTENT**

**The bill amended the plant rehabilitation and industrial development districts Act to require that a facility located in an industrial development district owned by a person who applied for an industrial facilities exemption certificate in July 2001 for construction that was commenced in February 2001 in a district that was established in September 2001, be taxed under the Act as if the facility had been granted the certificate in October 2001.** The bill took effect on February 14, 2006.

Under the Act, except for an application for a speculative building, the legislative body of a local governmental unit may not approve an application and the State Tax Commission may not grant an industrial facilities exemption certificate unless the applicant complies with various requirements, which include the following for applications made after December 31, 1983:

-- The proposed facility must be located within a plant rehabilitation district or industrial development district that was duly established in an eligible local governmental unit upon a request filed,

or by the local unit's own initiative taken, before the restoration, replacement, or construction of the facility commenced.

- The restoration, replacement, or construction of the facility must not have commenced earlier than six months before the application for the industrial facilities exemption certificate was filed.

Additionally, except as otherwise provided, a request for the establishment of a proposed plant rehabilitation or industrial development district may be filed only in connection with a proposed replacement facility or new facility whose construction, acquisition, alteration, or installation has not commenced at the time the request is filed. The legislative body of a local governmental unit may not establish a plant rehabilitation or an industrial development district if it finds that the request for the district was filed after the commencement of construction, alteration, or installation of, or an acquisition related to, the proposed replacement facility or new facility.

The Act makes exceptions to these conditions for certain facilities.

Under the bill, the conditions also do not apply to a facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in July 2001 for construction that was commenced in February 2001 in a district that was established by the legislative body of the local governmental unit in September 2001. The certificate is to expire as provided in the Act.

The facility must be taxed under the Act as if it had been granted an industrial facilities exemption certificate in October 2001. A corrected tax bill must be issued by the local tax collecting unit if it has possession of the tax roll or by the county treasurer if the county has possession of the tax roll.

If granting the industrial facilities exemption certificate results in the overpayment of the tax, a rebate, including any interest and penalties paid, must be made to the taxpayer by the local tax collecting unit or by the county treasurer within 30 days of the date the exemption is granted. The rebate must be without interest.

The bill was tie-barred to House Bill 5559 (Public Act 21 of 2006), which amended the Michigan Economic Growth Authority Act to delete a provision that excluded from the definition of "facility" a site that was a vaccine laboratory owned by the State on April 1, 1995 (i.e., the BioPort Corporation in Lansing).

MCL 207.559

## **BACKGROUND**

Under the Act, in a local unit that has established a plant rehabilitation and industrial development district, the owner or lessee of industrial property in the district may apply to the local unit for an industrial facilities exemption certificate. Upon approval by the local unit's legislative body, the application is forwarded to the State Tax Commission, which issues an industrial facilities exemption certificate if it determines that the facility conforms with the Act. The Act allows certificates to be issued for a combined total of 12 years for any one facility, as determined by the legislative body of the local unit of government. The certificate exempts the facility (but not the land or inventory) from real and personal property taxes, and makes it subject to a specific industrial facilities tax. For a new facility, the specific tax is 50% of what the property tax otherwise would be, plus the State education tax. For a replacement facility, the specific tax essentially is the amount that property taxes would be based on the value of the facility before renovation.

## **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 bill offers the affected company, Pro-Weld, the opportunity to receive the tax relief company officials believed it would receive when it moved to Port Huron. The company evidently was recruited to site its operations in Port Huron with the understanding that the facility was located on property that was within the city's industrial development district and that the facility would be eligible for an industrial facilities exemption certificate. Pro-Weld should be taxed under the Act as if the

facility had been granted the certificate in October 2001, the month after the district was expanded to include the Pro-Weld facility, because its failure to comply with the Act was the result of a mistake by the Economic Development Alliance of St. Clair County and not the company.

### **Opposing Argument**

The Act was designed to encourage economic development, not reward an existing business with tax breaks. Granting an industrial facilities exemption in a case where the company started work on a facility before it was included in an industrial development district runs counter to the Act's goal of encouraging new development in existing districts. Pro-Weld might have been misled as to the facility's location within an existing district, but the district boundaries are a matter of public record and easily could have been verified.

Legislative Analyst: J.P. Finet

### **FISCAL IMPACT**

The bill will reduce State and local unit revenue. Assuming the new certificate is for a new facility, the bill will reduce revenue from the property by 50%. The impact on the State education tax will depend whether 0, 3, or all 6 mills of the tax are abated under the certificate. Any reduction in local school district revenue for the 18 mills levied for operating purposes will be offset by increased expenditures from the School Aid Fund in order to maintain per-pupil funding guarantees.

The magnitude of the impact will depend upon the characteristics of the property affected, but based upon data from the city in which it is located, the impact will be approximately \$60,000 per year if all 6 mills of the State education tax are included in the certificate. Approximately 11% of the impact (\$6,500 per year) will reduce revenue to the School Aid Fund if the full 6 mills are included in the certificate, while roughly 33% (\$20,000 per year) will represent a loss of operating mills to the school district and will be offset by increased spending from the School Aid Fund. The remaining impact will affect other local units of government. However, because the bill will reduce taxes that already were paid in previous fiscal years, it is unclear how the impact of the bill will be distributed. The

potential refunds from the previous four tax years will total approximately \$240,000, to be paid during FY 2005-06 by the local tax collecting unit, although the local tax collecting unit retained only about 30% of the revenue that was collected over that period.

Fiscal Analyst: David 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.