

Legislative Analysis



MAKE ADDITIONAL FACILITIES ELIGIBLE FOR TAX EXEMPTIONS

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House Bill 5895 (Substitute H-1)
House Bill 5896 without amendment
Sponsor: Rep. Ed Clemente
Committee: New Economy and Quality of Life

Revised First Analysis (4-8-08)

BRIEF SUMMARY: The bills make additional facilities eligible for existing property tax exemptions. The facilities would include major distribution and logistics facilities, headquarters facilities, competitive edge technology businesses, information technology facilities, and certain businesses that are currently eligible for business tax credits under the Michigan Economic Growth Authority Act.

FISCAL IMPACT: To the extent new facilities were eligible for PA 198 abatements, there would be an increase in state expenditures for school operating costs and reduced local revenues.

THE APPARENT PROBLEM:

In 1974, in an effort to spur economic development, the Michigan legislature enacted Public Act 198, known as the Plant Rehabilitation and Industrial Development District Act. Under that act, a new facility pays an industrial facilities tax (a "specific tax" paid in lieu of property tax), which is roughly one-half of standard property taxes. Further, for a replacement or restored facility, the tax is based on the value of property prior to renovation (any increased value is exempt). Public Act 198 was the first of five tax abatement laws enacted in the 1970's, in the hope that communities would retain industrial employment opportunities for Michigan citizens.

The tax benefits promised under Public Act 198 are granted by the local government of the city, township, or village where the facility is located. The process is begun by the adoption of a resolution to establish a *plant rehabilitation district* (for a restoration project) or an *industrial development district* (for a new project) after a public hearing. A request to establish the district must be filed—either by property owners within the proposed district or by local officials—with the clerk of the local government. Companies then complete a tax abatement application process in which they seek industrial facilities exemption certificates from the local government, a process that is overseen by officials in state government at the State Tax Commission. Once granted by the local officials, and affirmed by the state officials, a certificate can be issued for a combined total of 12 years for any one facility. 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.

Currently, the law allows communities to grant tax abatements to industrial properties, now defined to include many service enterprises. See Background Information. However, the law is vague as to the eligibility of other projects. Consequently, community leaders are unable to recruit other kinds of employers to their areas by offering to them this significant 12-year reduction in their taxes.

Legislation has been introduced to make additional facilities eligible for the tax abatements, including major distribution and logistic facilities, headquarters, competitive edge technology business, information technology facilities, and certain businesses that are now eligible for tax credits under the Michigan Economic Growth Authority Act.

THE CONTENT OF THE BILLS:

The bills would amend two acts to make additional facilities eligible for existing property tax exemptions. The facilities would include major distribution and logistics facilities, headquarters facilities, competitive edge technology businesses, information technology facilities, and certain businesses that are currently eligible for business tax credits under the Michigan Economic Growth Authority Act.

House Bill 5895 (H-1) would amend the Plant Rehabilitation District and Industrial Development Act, commonly known as PA 198, (MCL 207.552) under which property tax abatements can be granted by local units of government to new and speculative buildings and to replacement facilities. Abatements are available on a facility (but not the land) for up to 12 years, by allowing a firm to pay a lower "specific" tax instead of regular property taxes. The specific tax is roughly one-half of the standard property tax for a new facility. For a rehabilitated facility, the tax is based on the value of property prior to renovation. Approval is first required by a local unit of government and subsequently by the State Tax Commission, which checks to see if the law has been followed properly. The bill would make those facilities listed earlier eligible for these abatements. They are defined later.

House Bill 5896 would amend a section of the General Property Tax Act (MCL 211.9f) that allows local assessing districts in certain distressed areas to adopt a resolution exempting from taxation new personal property owned or leased by certain eligible businesses. To be eligible for the property tax exemption currently, a business must be engaged primarily in manufacturing, mining, research and development, wholesale trade, or office operations. Additionally, the business must be located within an industrial development district, renaissance zone, enterprise zone, brownfield redevelopment zone, empowerment zone, tax increment financing district, or downtown development district within a city, village, or township that contains a "distressed area," as that term is defined under the State Housing Development Authority Act. The bill would make these additional facilities eligible for this property tax exemption, and would expand other eligibility criteria.

Definitions in House Bill 5895

The following definitions are found in House Bill 5895 but apply to both bills.

Under the bill, the term "*headquarters facility*" would be defined to mean a proposed office and headquarters center that meets all of the following:

- Is the principal or central administrative office of a multi-state taxpayer where not fewer than 100 fulltime headquarters staff employees are located and employed, and where the primary headquarters-related functions and services are performed.
- Has been approved by the president of the Michigan Strategic Fund. In determining whether to approve the headquarters facility, the president must consider (1) whether the facility has the ability to be located outside of this state; (2) the number of jobs and the amount of the wages for those jobs at the facility; (3) whether the facility being located in this state will be a new benefit for this state; (4) whether the operation of the facility will have a negative effect on employment in other areas of this state.

The bill would also define the term "*headquarters-related functions and services*" to mean those functions involving financial, personnel, administrative, legal, planning or similar business functions performed by headquarters staff employees.

The term "*major distribution and logistics facility*" would mean a proposed distribution center that meets all of the following:

- Contains at least 300,000 square feet.
- Has or will have an assessed value of \$5 million or more for the real property.
- Is located within 35 miles of the border of the state.
- Has as its purpose the distribution of inventory and materials to facilities owned by the taxpayer whose primary business is the retail sale of sporting goods and related inventory.
- Has been approved by the president of the Michigan Strategic Fund. (In determining whether to approve the major distribution and logistic facility, the president would be required to consider all of the following: (1) whether the facility has the ability to be located outside of this state; (2) whether the facility will serve a multistate or multination market; (3) the number of jobs and the amount of the wages for those jobs at the facility; and (4) whether the facility being located in this state will be a net benefit for the state;

The term "*competitive edge technology business*" is imported from the Michigan Strategic Fund Act, where it refers to businesses engaged in life sciences technology; advanced automotive, manufacturing, and materials technology; homeland security and defense technology; and alternative energy technology.

Definitions in House Bill 5896

Under Section 9f of the General Property Tax Act, exemptions for new personal property are available to "an eligible business" located in one or more "eligible districts." The definitions of both of these terms would be amended.

The bill would amend the definition of "*eligible business*" by adding "the operation of a major distribution and logistics facility, the operation of a headquarters facility, the operation of a competitive edge technology business, the operation of an information technology facility, or the operation of a facility for which the business that owns or operates the facility is an eligible taxpayer" (Emphasis added). The term "*eligible taxpayer*" would refer to a taxpayer that meets both of the following conditions: 1) is an authorized business; and 2) is eligible for tax credits described in Section 9 of the Michigan Economic Growth Authority

Act. The bill would add a definition of the new term "*authorized business*," which would be imported from Section 3 of the Michigan Economic Growth Authority Act. These are businesses eligible for Single Business Tax credits and Michigan Business Tax credits awarded under MEGA.

The bill also would expand the definition of "*eligible district*" to include "an area that contains an eligible taxpayer." In addition, the bill would change the definition of "*eligible distressed area*" to include an area that contains an eligible taxpayer.

BACKGROUND INFORMATION:

The current definition of "*industrial property*" under Public Act 198, as amended, follows:

"Industrial property" means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures or any part or accessory whether completed or in the process of construction comprising an integrated whole, the primary purpose and use of which is the engaging in a high-technology activity, operation of a strategic response center, operation of a motor-sports entertainment complex, operation of a logistical optimization center, operation of qualified commercial activity, the manufacture of goods or materials, creation or synthesis of bio-diesel fuel, or the processing of goods and materials by physical or chemical change; property acquired, constructed, altered, or installed due to the passage of proposal A in 1976; the operation of a hydro-electric dam by a private company other than a public utility; or agricultural processing facilities.

Industrial property includes facilities related to a manufacturing operation under the same ownership, including, but not limited to, office, engineering, research and development, warehousing, or parts distribution facilities. Industrial property also includes research and development laboratories of companies other than those companies that manufacture the products developed from their research activities and research development laboratories of a manufacturing company that are unrelated to the products of the company.

For applications approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007, industrial property also includes an electric generating plant that is not owned by a local unit of government, including, but not limited to, an electric generating plant fueled by biomass. Industrial property also includes convention and trade centers over 250,000 square feet in size. Industrial property also includes a federal reserve bank operating under 12 USC 341, located in a city with a population of 750,000 or more.

Industrial property may be owned or leased. However, in the case of leased property, the lessee is liable for payment of *ad valorem* property taxes and shall furnish proof of that liability. Industrial property does not include any of the following: (a) Land. (b) Property of a public utility other than an electric generating plant that is not owned by a local unit of government and for which an application was approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007. (c) Inventory.

ARGUMENTS:

For:

Communities should have a full arsenal of weapons to wage the battle for full employment of their citizens. Communities cannot be vital, and families cannot stay strong, if the people in them cannot find work. Likewise, companies cannot be good corporate citizens if they cannot manufacture their products, offer their services, or pay their employees during an economic downturn. This legislation allows officials in cities, villages, and townships to encourage economic development and stimulate commercial and industrial expansion in Michigan. The bills allow new and competitive companies to seek incentives, enabling them to locate or expand their business facilities in Michigan.

Against:

This bill is a good one but it should be amended. Often over the past 20 years, numerous projects have begun or advanced outside the required statutory time frames, out of compliance with Public Act 198. Then, a local government approaches the legislature to waive the procedural requirements, and a bill is introduced to grant the project an exemption. Generally, an amendment is enacted specific for each case, which allows an exemption certificate to be issued despite non-compliance with the statutory time-frames or with other procedural requirements. An amendment to this bill could establish an administrative avenue to deal on a case-by-case basis with projects where the proper procedure has not been followed, thereby avoiding the need to amend the act each time a similar situation arises in the future. For example, the amendment could specify that the timelines would not apply if the project otherwise met the act's criteria, and if the facility received written approval from the Michigan Economic Growth Authority and the State Tax Commission. [This approach is proposed in Senate Bill 218 (S-1), which has passed the Senate, and has been referred to the House Commerce Committee.]

POSITIONS:

The Michigan Economic Development Corporation supports the bills. (3-20-08)

The Michigan Municipal League has no official position on the legislation but expressed concern over its potential for harming redevelopment in urban areas. (3-20-08)

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■ 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.