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BILL ANALYSIS

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Senate Bill 218 (Substitute S-1 as reported)
Sponsor: Senator Raymond E. Basham
Committee: Economic Development and Regulatory Reform

Date Completed: 5-30-07

RATIONALE

The plant rehabilitation and industrial development 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. A local governmental unit may not approve an application and the State Tax Commission may not grant an exemption certificate unless the district was established before restoration, replacement, or construction began, and the restoration, replacement, or construction did not begin earlier than six months before application for the exemption certificate was filed. On several occasions, amendments to the Act have provided exceptions to these requirements for particular projects that had been approved by local legislative bodies but did not meet the procedural timeline requirements. It has been suggested that the Act should prescribe a procedure for administrative approval of exceptions so that each similar situation in the future would not require an amendment to PA 198. It also has been suggested that a statutory exception be added to accommodate a project in Monroe County.

CONTENT

The bill would amend the plant rehabilitation and industrial development Act to allow an industrial facilities exemption certificate to be approved for a facility located in an

industrial development district that had received approval from the Michigan Economic Growth Authority (MEGA) and the State Tax Commission, and that met requirements of the Act other than certain procedural timetables. In addition, the bill would allow an industrial facilities exemption certificate to be approved for a facility located in an existing industrial development district owned by a person who filed or amended an application for a certificate for real property in April 2006 if the application had been approved by the local unit's legislative body in August 2006 but not submitted to the State Tax Commission until November 2006.

Under the Act, except for an application for a speculative building, the legislative body of a local governmental unit (a city, village, or township) 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:

- 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.

Under the bill, these criteria would not apply to either of the following:

- A facility located in an industrial development district that otherwise met the criteria of the Act that had received written approval from MEGA and the State Tax Commission.
- A facility located in an existing industrial development district owned by a person who filed or amended an application for an industrial facilities exemption certificate for real property in April 2006, if the application were approved by the legislative body of the local governmental unit in August 2006 but not submitted to the State Tax Commission until November 2006.

MCL 207.559

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 Act makes several exceptions to procedural requirements regarding when a restoration, replacement, or construction project may begin relative to the establishment of a district and the filing of an application for an exemption certificate. Each of those exceptions is for a particular project in which, for various reasons, the procedural timetables were not met. In each case, an amendment was enacted specifically to allow an exemption certificate to be issued despite noncompliance with the statutory time frames. By providing that those requirements would not apply to a

facility located in an industrial development district that otherwise met the Act's criteria, if the facility received written approval from MEGA and the State Tax Commission, the bill would establish an administrative avenue to deal on a case-by-case basis with projects that involved a procedural oversight. The bill thus would avoid the need to amend the Act each time a similar situation arose in the future.

Supporting Argument

The bill would address a situation in which a business in Monroe County evidently applied for and received local approval of an exemption certificate but did not receive approval from the State Tax Commission because of timeliness issues.

Response: Section 6 of PA 198 requires the clerk of a local unit to forward an approved application to the State Tax Commission within 60 days of approval or before October 31 of that year, whichever is first, in order to receive an exemption certificate effective for the following year. The bill would not make an exception to this requirement.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would reduce State and local unit revenue and increase School Aid Fund expenditures by an unknown amount. The impact on State revenue would depend on whether 0, 3, or 6 mills of the State education tax would be abated under any certificate granted under the new provisions. Any reduction in local school district operating revenue would be offset by increased expenditures from the School Aid Fund in order to maintain per-pupil funding guarantees.

The magnitude of the impact also would depend upon the characteristics of the properties affected. If any certificates were to be issued for a new facility, the revenue impact would represent an increase in revenue that would not be realized when the construction was completed.

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.