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BILL ANALYSIS



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Senate Bill 276 (as enacted)
House Bill 5251 (as enacted)
Sponsor: Senator Roger Kahn, M.D. (S.B. 276)
Representative Andy Coulouris (H.B. 5251)
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 115 of 2007
PUBLIC ACT 116 of 2007

Date Completed: 2-23-09

RATIONALE

As the General Property Tax Act allows, some local tax assessing districts in distressed areas have adopted resolutions that exempt from the collection of taxes new personal property that is leased or owned by eligible businesses. Businesses that meet various criteria, including maintaining a certain number of jobs, investing capital in the State, and/or being located in blighted areas or in cities with decreasing populations, are eligible to receive an exemption. Originally, when the personal property was sold, it was no longer tax exempt and the new owner had to pay taxes on the property even if the new owner continued the work and business of the previous owner. Evidently, this made it more difficult to sell a business as its costs would be considerably higher when tax on personal property was included. In order to increase the salability of certain businesses and continue their positive effects on distressed areas, some people suggested that tax exemptions for personal property of eligible businesses should be transferable to new owners of that property when it is sold.

CONTENT

The bills amended the General Property Tax Act to maintain the tax-exempt status of new personal property sold or leased by an existing eligible business to an acquiring eligible business; and extend the exemption to any new personal property leased or purchased by that business.

The bills were tie-barred to each other and took effect on October 30, 2007.

The Act allows the governing body of an eligible local tax assessing district to adopt a resolution exempting from the collection of taxes under the Act all new personal property leased or owned by an eligible business located in one or more eligible districts or distressed parcels designated in the resolution. The exemption is effective on the December 31 immediately following the adoption of the resolution and continues in effect for a period specified in the resolution.

Under the bills, if an existing eligible business sells or leases to another eligible business new personal property exempt from personal property tax under a resolution adopted by an eligible local tax assessing district, the exemption granted to the existing eligible business continues in effect for the period specified in the resolution for the new personal property purchased or leased from the existing eligible business by the acquiring eligible business and for any new personal property purchased or leased by that business. After December 31, 2007, an exemption may continue in effect for an acquiring eligible business only if approved in a resolution adopted by the governing body of an eligible local assessing district.

House Bill 5251 defines "existing eligible business" as an eligible business identified in the resolution adopted by the governing

body of an eligible local tax assessing district for which an exemption has been granted. "Acquiring eligible business" means an eligible business that purchases or leases assets of an existing eligible business, including the purchase or lease of exempt new personal property, and that will conduct business operations similar to those of the existing eligible business at the location of the existing eligible business within the eligible district.

The Act defines "eligible business" as a business engaged primarily in manufacturing, mining, research and development, wholesale trade, or office operations. The definition expressly excludes a casino, retail establishment, professional sports stadium, any portion of an eligible business used exclusively for retail sales, and all property associated or affiliated with the operation of a casino.

An "eligible district" may be one or more of the following:

- An industrial development district as defined in Public Act 198 of 1974.
- A renaissance zone as defined in the Michigan Renaissance Zone Act.
- An enterprise zone as defined in the Enterprise Zone Act.
- A brownfield redevelopment zone as designated under the Brownfield Redevelopment Financing Act.
- An empowerment zone designated under the Internal Revenue Code.
- An authority district or a development area as defined in the Tax Increment Finance Authority Act.
- An authority district as defined in the Local Development Financing Act.
- A downtown district or a development area as defined in Public Act 197 of 1975.

An "eligible local assessing district" is a city, village, or township that contains an eligible distressed area.

"Eligible distressed area" means that term as defined in the State Housing Development Authority Act (which refers to an area in a city with a population under 10,000 that has been designated "blighted"; a municipality that shows a negative population change from 1970, and a poverty rate and unemployment rate above the statewide average; or an area certified as a neighborhood enterprise zone). "Eligible

distressed area" also includes an area that contains an eligible business as described in Section 8(5)(b)(ii) of the Michigan Economic Growth Authority Act (a facility that maintains 150 retained jobs at the facility, maintains 1,000 or more full-time jobs in Michigan, and makes new capital investment in the State).

"New personal property" is personal property that was not previously subject to taxation under the General Property Tax Act and that is placed in an eligible district after a resolution exempting new personal property is approved by the eligible local assessing district. "New personal property" does not include buildings on leased land or, during the tenancy of a lessee, personal property or improvements to real property held under certain leaseholder arrangements described in the Act.

(Originally, this property tax exemption applied only to new personal property in eligible districts. Public Act 230 of 2008 extended the exemption to new personal property located in one or more distressed parcels. "Distressed parcel" means a parcel of real property located in a city or village that meets all of the following conditions:

- Is located in a qualified downtown revitalization district (as defined by the Act).
- Has a blighted or functionally obsolete building located on the parcel, or is a vacant parcel that had been previously occupied.
- Is zoned to allow for mixed use.

Public Act 285 of 2008 amended the definition of "eligible business" to include the operation of a facility for which the business that owns or operates the facility is an eligible taxpayer, and to include an area that contains an eligible taxpayer in the definition of "eligible district". The definition of "eligible taxpayer" refers to a business eligible for certain business tax credits under the Michigan Economic Growth Authority Act.

Public Act 573 of 2008 amended the definition of "eligible local assessing district" to include a city, village, or township that meets one or both of the following conditions and is located in a county that partially or entirely borders another state or Canada:

- Is currently served by at least four of the following services: water, sewer, police, fire, trash, and recycling.
- Is party to an agreement under Public Act 425 of 1984 (which allows local units to transfer property conditionally for an economic development project) with a city, village, or township that provides at least four of those services.

Under Public Act 573, an exemption may not be granted after December 1, 2012, for an eligible business located in an eligible district meeting those criteria. An exemption also may not be granted after that date for an eligible taxpayer.)

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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

In 1999, Buena Vista Township and the City of Saginaw passed resolutions to provide tax exemptions for personal property purchased by Delphi Chassis and Delphi Steering for a period of 20 years. In 2006, as part of its postbankruptcy plan, Delphi Corporation announced its decision to sell Delphi Steering and Delphi Chassis. Soon after, the City of Saginaw and Buena Vista Township passed resolutions stating their willingness to transfer existing abatements and incentives to any potential new owner of the businesses and facilities. Because no legal method of transferring the exemptions existed, however, the municipalities were unable to do so. Reportedly, this made it difficult for the Delphi Corporation to sell Delphi Steering and Delphi Chassis.

The bills address situations like this by allowing governing bodies of eligible local tax assessing districts to extend tax exemptions that encourage economic stability or growth in their districts. The bills will help improve a community's economy by providing an incentive for businesses to remain in the community even under new ownership. Because a transfer of a tax exemption must be approved by a governing body, each community may decide what is in its best interest.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bills will have an unknown and likely negligible impact on local unit revenue and an unknown and likely negligible effect on State expenditures. To the extent that the bills do not change property sales or acquisition, they will not reduce local unit revenue. Any reduction in school operating mills will be offset by increased School Aid Fund expenditures in order to maintain per-pupil funding guarantees. To the extent that property that would not have been sold under the original law is sold under the bills (and/or some taxpayers purchase the used property when they otherwise would have purchased new property), the bills will have an indeterminate impact upon local unit revenue.

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.