



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

Senate Bills 500 and 501 (as introduced 4-30-09)

Sponsor: Senator Tony Stamas (S.B. 500)

Senator Roger Kahn, M.D. (S.B. 501)

Committee: Economic Development and Regulatory Reform

Date Completed: 10-13-09

# **CONTENT**

Senate Bills 500 and 501 would amend the plant rehabilitation and industrial development Act, commonly called P.A. 198, to include an "existing facility" in the facilities that are eligible for a tax abatement under the Act.

Senate Bill 500 would define "existing facility" as industrial property that is not a replacement facility, a new facility, or a speculative building and has been vacant for at least four years and/or has become vacant due to the most recent occupant relocating outside of Michigan.

A detailed description of the bills follows.

# Senate Bill 500

The Act allows local units of government to establish plant rehabilitation districts and industrial development districts. The State Tax Commission may grant an industrial facility exemption certificate to a "facility" (i.e, a new facility, speculative building, or replacement facility) located in a plant rehabilitation district or an industrial development district. A certificate essentially grants a property tax abatement for industrial property in a district, which instead is subject to the industrial facility tax. The bill would include an existing facility in the Act's definition of "facility".

Under the Act, a local unit generally may not establish a plant rehabilitation district or an industrial development district if the request for the district was filed after the commencement of construction, alteration, or installation of a proposed replacement facility or new facility or a related acquisition. This provision does not apply to a speculative building and, under the bill, it would not apply to an existing facility.

Within 60 days after receiving an approved application or an appeal of a disapproved application that was submitted to the Tax Commission before October 31, the Commission must determine whether the facility in question is a speculative building or designed and acquired primarily for the purpose of restoration or replacement of obsolete industrial property or the construction of new industrial property, and whether the facility otherwise complies with the Act. Under the bill, the Commission also would have to determine whether the facility was an existing facility. Except as otherwise provided in the Act, the effective date of a certificate for a replacement facility or new facility is the December 31 immediately following the date the certificate is issued. Under the bill, that also would be the effective date of a certificate for an existing facility.

Page 1 of 3 sb500&501/0910

A local unit may not approve an application and the Commission may not grant an industrial facilities exemption certificate unless the applicant complies with certain requirements regarding the location and construction schedule for the facility. This does not apply to a speculative building and, under the bill, it also would not apply to an existing facility.

The Act requires the assessor of each city or township in which there is a speculative building, new facility, or replacement facility for which certificates have been issued and are in force to determine annually, as of December 31, the value and taxable value of each facility subject to a certificate. The bill would include an existing facility in that requirement.

(The Act defines "new facility" as new industrial property other than a replacement facility to be built in a plant rehabilitation district or industrial development district.

"Speculative building" means a new building that meets all of the following criteria and the machinery, equipment, furniture, and fixtures located in the new building:

- -- The building is owned by, or approved as a speculative building by resolution of, a local unit in which the building is located or the building is owned by a development organization and located in the development organization's district.
- -- The building is constructed for the purpose of providing a manufacturing facility before the identification of a specific user of the building.
- -- The building does not qualify as a replacement facility.

"Replacement facility" means one of the following:

- -- In the case of a replacement or restoration that occurs on the same land as that which is replaced or restored, or on contiguous land, industrial property that is or is to be acquired, constructed, altered, or installed for the purpose of replacement or restoration of obsolete industrial property together with any part of the old altered property that remains for use as industrial property after the replacement, restoration, or alteration.
- -- In the case of construction on vacant noncontiguous land, property that is or will be used as industrial property that is or is to be acquired, constructed, transferred, or installed for the purpose of being substituted for obsolete industrial property if the obsolete industrial property is situated in a plant rehabilitation district in the same city, village, or township as the land on which the facility is to be constructed and includes the obsolete industrial property itself until the substituted facility is completed.)

## Senate Bill 501

Except as otherwise provided, the Act levies a specific tax known as the industrial facility tax, as well as an administrative fee, upon every owner of a speculative building, a new facility, or a replacement facility to which an industrial facilities exemption certificate is issued. Under the bill, the industrial facility tax and administrative fee also would be levied upon the owner of an existing facility to which an industrial facilities exemption certificate was issued.

A speculative building, a new facility, or a replacement facility located in a renaissance zone is exempt from the industrial facility tax to the extent and for the duration provided under the Michigan Renaissance Zone Act, except for the portion of the tax attributable to a special assessment or a tax described in Section 7ff(2) of the General Property Tax Act. The bill would include an existing facility in this provision. (Section 7ff(2) provides that real and personal property in a renaissance zone is not exempt from collection of a special assessment levied by the local tax-collecting unit; 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 unit; or certain taxes levied under the Revised School Code.)

Page 2 of 3 sb500&501/0910

The amount of the industrial facility tax in each year for a new facility or a speculative building is determined by multiplying the taxable value of the facility, excluding the land and the inventory personal property, by the sum of one-half of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than the mills levied under the State Education Tax (SET) Act, plus, subject to Section 14a, the number of mills levied under the SET Act. The bill would extend that tax calculation to an existing facility. (Under Section 14a, within 60 days after an industrial facilities exemption certificate is granted for a new facility, the State Treasurer may exclude one-half or all of the SET mills from the calculation of the industrial facility tax on the facility, if the Treasurer determines that doing so is necessary to reduce unemployment, promote economic growth, and increase capital investment in the State.)

A local unit's legislative body may request the Tax Commission to revoke an industrial facilities exemption certificate if the purposes for which it was issued are not being fulfilled as a result of the holder's failure to proceed in good faith with the replacement, restoration, or construction and operation of a replacement facility or new facility. The bill would include the operation of an existing facility in that provision.

Unless revoked earlier, an industrial facilities exemption certificate remains in force and effect for a period to be determined by the local unit's legislative body, but not more than 12 years after the completion of the facility. Under the bill, for an existing facility, that period could be not more than 12 years after the issuance of the certificate for the facility.

If an exemption certificate for a replacement facility, a new facility, or a speculative building is effective for a period shorter than the maximum allowable period, both of the following apply:

- -- The owner or lessee of the facility or building may apply for another certificate within the final year the certificate is effective, within 12 months after it expires, or, as permitted by the local unit, at any other time in which the certificate is in effect.
- -- The local unit's legislative body may not approve applications for certificates whose total periods exceed the maximum allowable 12-year period for the user or lessee of a replacement facility, new facility, or speculative building.

The bill would include an existing facility in those provisions.

MCL 207.552 et al. (S.B. 500) Legislative Analyst: Patrick Affholter 207.561 et al. (S.B. 501)

# **FISCAL IMPACT**

The bills would reduce State and local tax revenue by an unknown amount that would depend on the number of properties affected and the specific characteristics of those properties. Local property taxes on affected properties would be reduced by approximately 50% while the impact on State Education Tax revenue would depend on whether 0, 3 or 6 mills of the State Education Tax were abated.

Fiscal Analyst: David Zin

#### S0910\s500sa

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.