



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



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

Senate Bills 266 and 267 (as introduced 3-16-11)
Sponsor: Senator Roger Kahn, M.D.
Committee: Economic Development

Date Completed: 5-10-11

CONTENT

Senate Bills 266 and 267 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, but prohibit the approval of a tax exemption certificate for an existing facility on or after December 30, 2013.

Senate Bill 267 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 three years immediately preceding the date of application and/or has become vacant because the most recent occupant is subject to a bankruptcy proceeding.

A detailed description of the bills follows.

Senate Bill 267

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 or 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. Also, a local unit may not approve an application and the Tax 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. These provisions do not apply to a speculative building and, under the bill, they 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.

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.

Beginning December 30, 2013, a local unit's legislative body could not approve an application and the State Tax Commission could not grant an industrial facilities exemption certificate for an existing facility.

Senate Bill 266

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.)

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 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 207.561 et al. (S.B. 266)
207.552 et al. (S.B. 267)

Legislative Analyst: Patrick Affholter

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

S1112\S266sa.

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.