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

BILL ANALYSIS

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

Senate Bills 536 and 537 (as introduced 9-27-23) *(Senate-passed version)*
Sponsor: Senator Paul Wojno
Committee: Economic and Community Development

Date Completed: 2-27-24

CONTENT

Senate Bills 536 and 537 would amend the plant rehabilitation and industrial development Act to modify the definitions of "speculative building" and "qualified commercial activity", respectively, and effectively expand eligibility for an industrial facilities exemption certificate provided under the Act.

Senate Bill 536

Generally, the Act allows a local governmental unit, by resolution of its legislative body, to establish plant rehabilitation districts and industrial development districts that consist of one or more parcels or tracts of land or a portion of a parcel or tract of land. After the establishment of a district, the owner or lessee of a facility may file an application for an industrial facilities exemption certificate with the clerk of the local governmental unit that established the plant rehabilitation district or industrial development district. An industrial facilities exemption certificate exempts a facility from ad valorem real and personal property taxes and the lessee, occupant, user, or person in possession of that facility for the same period is exempt from certain ad valorem taxes.

"Facility" means either a replacement facility, a new facility, or, if applicable by its usage, a speculative building.

A building must meet one of the following criteria to qualify as a speculative building:

-- Be a new building that 1) is owned by, or approved as a speculative building by resolution of, a local governmental unit in which the building is located or a development organization, if the building is owned by and located within the development organization; 2) is constructed for the purpose of providing a manufacturing facility before the identification of a specific user of that building; and 3) does not qualify as a replacement facility.
-- Be an existing building on an improved parcel of industrial property used for the manufacturing of goods or materials or the processing of goods or materials; the building must have been constructed within nine years of the filing of the application for a certificate, which can only be granted to one building, and must 1) have been occupied for at least four years immediately preceding the date the certificate is issued, 2) is in an industrial development district created before January 1, 2011, and 3) is located in a county with a population of between 22,000 and 24,500 containing a city with a population of more than 3,600 according to the last decennial census.

The bill would modify the definition to allow a building to qualify as a speculative building if it were a *new* building constructed for the purpose of providing a warehousing or distribution facility before the identification of a specific user of that building.

Senate Bill 537

"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, among other things, is the operation of qualified commercial activity.

Under the Act, "qualified commercial activity" means commercial property that meets the following conditions:

-- At least 90% of the property, excluding the surrounding green space, is used for warehousing, distribution, or logistic purposes and is located in a county that borders another state or Canada or for a communications center.
-- Occupies a building or structure that is greater than 100,000 square feet in size.

The bill would remove the requirement that qualified commercial activity be in a county that borders another state or Canada, effectively allowing otherwise qualified activity to be located anywhere in the State.

MCL 207.553 (S.B. 536) Legislative Analyst: Abby Schneider
207.552 (S.B. 537)

FISCAL IMPACT

The bills would reduce State and local revenue by an unknown amount that would depend on the number of affected taxpayers, the specific characteristics of any affected property, applicable millage rates, and the degree to which the activity would have occurred absent the bills or occurred elsewhere in the State absent the bills.

Under the Act, the tax calculation for a property with a certificate depends on if the facility is a new facility or a rehabilitated one. In both cases, the value of the facility and the value of the land are treated separately—and the tax on the land is as it would be whether a facility receives a certificate. For rehabilitated facilities, the tax on the facility is based on the value of the facility before the rehabilitation while for a new facility, the number of mills applied to the facility is 50% of the local mills, plus either zero, three, or six mills for the State Education Tax (SET).

Regardless of how the tax under the certificate is calculated, any revenue is distributed in the same manner. Local units other than schools and some intermediate school districts (ISDs) receive their proportional share of the tax (in the same proportions they would receive absent the certificate). The State may lose revenue under the SET if any of the SET is abated; however, the portion of the tax attributable to local school operating mills (and some select ISD related mills) are sent to the State School Aid Fund (SAF) instead of being distributed to the local school district/ISD. Because of the levels of the relevant millage rates, the tax payment to the State under the certificate exceeds the loss of revenue under the SET; however, the State still realizes a net revenue loss because the State must make up the loss of both the SET and the local school operating mills when it funds the basic foundation allowance to affected districts. As a result, local units lose revenue relative to not having a certificate while the State gains revenue; however, the net impact on the State budget is negative because SAF expenses rise by more than the increase in SAF revenue.

The bills would make two changes affecting eligibility for a certificate. Firstly, they would allow a new building that was for warehousing or distribution to be eligible. Under current law,

facilities must serve a manufacturing purpose. Senate Bill 536 would expand eligibility to facilities engaged in manufacturing, warehousing, or distribution. Secondly, the definition of qualified commercial activity would be expanded to anywhere in the State. Under current law, qualified commercial activity means property that meets certain criteria, and if the property is used for warehousing, distribution, or logistic purposes the property must be located in a county that borders another state or Canada. Senate Bill 537 would delete the location requirement.

The revenue loss under the bills would depend on how many certificates were sought under the bills' provisions, whether affected properties were new or rehabilitations, the millage rates for the locations in which the certificates were granted, whether or not any of the SET was abated, whether or not the facility would have otherwise been built in a location already eligible under current law, and the value of the rehabilitation/new construction.

It is impossible to know how much the bills would increase the impact relative to current law. Based on Treasury's estimates of the impact of existing certificates, current law reduced State and local unit revenue by approximately $253.4 million in 2021. That loss of revenue has likely declined since 2021 as personal property tax exemptions have continued phasing-in and additional provisions have expanded exemptions. For illustrative purposes, if the bills increased the loss by 1% of the 2021 impact, State and local revenue would fall by $2.5 million, assuming the activity would occur absent the bills, while if the bills increased the loss by 5%, the reduction would be $12.7 million. Not only is the combined impact unknown, but the distribution of any revenue reduction is also unknown. For existing certificates, State and local losses vary widely, as does the ratio of the exemption value to value subject to tax—with counties reporting the exemption represent between 0% (on a rounded basis) of the taxable value for affected properties to 60%.

Fiscal Analyst: David Zin

SAS\S2324\s536sa
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.