Legislative Analysis

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PA 198: INCLUDE QUALIFIED COMMERCIAL ACTIVITY

Senate Bill 175 (Substitute H-1)
Sponsor: Sen. Cameron S. Brown
House Committee: Commerce
Senate Committee: Economic Development, Small Business and Regulatory Reform

First Analysis (9-14-05)

BRIEF SUMMARY: The bill would amend the Plant Rehabilitation and Industrial Development Districts Act (known as PA 198) to permit local units of government to extend property tax abatements to certain kinds of commercial property; namely those used for warehousing, distribution, or logistic purposes or as communication service centers, provided they were housed in a building or structure larger than 100,000 square feet.

FISCAL IMPACT: The bill would reduce state and local revenue and would increase expenditures from the School Aid Fund by an indeterminate amount. The bill would expand the types of activities and taxpayers eligible for a property tax abatement under Public Act 198. An abatement (through the awarding of an industrial facilities certificate) reduces tax revenue if the activity would have occurred without the awarding of the abatement; if the activity would not have otherwise occurred, taxing units simply forego and/or delay receipt of tax revenue that otherwise would not have been received.

The amount of the revenue reduction would depend upon the number of taxpayers that would seek certificates under the bill as well as the characteristics of the property. To the extent that a local unit awarded certificates to taxpayers under the terms of the bill instead of to other taxpayers, the bill could have a smaller cost or even a positive fiscal impact. School Aid Fund expenditures would be affected to the extent that the tax reductions granted under the certificates reduced own-source revenue received by local school districts. To maintain guaranteed per-pupil funding amounts, School Aid Fund expenditures would need to increase to offset any loss of local revenue.

THE APPARENT PROBLEM:

Officials from communities on Michigan's southern border claim that they have been unable to attract warehousing operations because they cannot offer warehouses the same property tax abatements as communities in Ohio and Indiana. Reportedly, a company recently decided not to locate a major warehouse and distribution facility in St. Joseph County because such a facility is not eligible for an abatement under the Plant Rehabilitation and Industrial Development Districts Act (which applies to new and rehabilitated industrial plants), commonly referred to as PA 198. . The business chose instead to locate the warehouse in northern Indiana, where it was granted a 50 percent property tax abatement. To address this situation, some people believe that local governments should be allowed to offer the same property tax abatements to warehousing operations and other qualified commercial activities as they are permitted to offer to industrial property under the act.

THE CONTENT OF THE BILL:

The bill would amend the Plant Rehabilitation and Industrial Development Districts Act (known as PA 198) to permit local units of government to extend property tax abatements to certain kinds of commercial property; namely those used for warehousing, distribution, or logistic purposes or as communication service centers, provided they were housed in a building or structure larger than 100,000 square feet.

Under the act, local units of government may establish plant rehabilitation districts and industrial development districts to provide new, renovated, or expanded industrial property (facilities) with property tax abatements for up to 12 years. To be eligible for the tax abatements, the industrial property must be used for certain activities, which include the manufacturing and processing of goods and materials, high technology activity, and agricultural processing. The bill would amend the definition of "industrial property" to include the operation of "qualified commercial activity."

"Commercial property" would mean that term as defined in Section 2 of the Obsolete Property Rehabilitation Act; that is, land improvements classified by law for general ad valorem tax purposes as real property including real property assessable as personal property pursuant to Sections 8(d) and 14(6) of the General Property Tax Act.

MCL 207.552

HOUSE COMMITTEE ACTION:

The House Committee on Commerce adopted a substitute H-1. The bill as passed by the Senate required as an eligibility criterion that the facility pay an average weekly wage to its employees equal to or exceeding the average weekly wage paid to residents of the county where the facility is located. The House substitute deleted this requirement.

Some of the information in this analysis was derived from the Senate Fiscal Agency's analysis of the Senate-passed bill dated 5-11-05.

BACKGROUND INFORMATION:

Public Act 255 of 1978, the Commercial Redevelopment Act, is a counterpart to PA 198, and was once the means by which property tax abatements were provided to commercial enterprises, including warehouses. That act is still on the books, but Section 18 of the act says, "A new exemption shall not be granted under this act after December 31, 1985, but an exemption then in effect shall continue until the expiration of the exemption certificate."

ARGUMENTS:

For:

Today's warehousing and distribution operations often provide their employees with both good pay and benefits, and many local governments in Michigan, Ohio, and Indiana have been competing against each other to recruit these businesses. Reportedly, Performance Foods was considering locating a warehouse and distribution center in St. Joseph County, where it would have paid an average weekly wage higher than the county average. Eventually, Performance Foods decided to locate in northern Indiana where it received a 10-year, 50 percent tax abatement that St. Joseph County could not match. Extending PA 198 to allow property tax abatements for warehousing operations and other commercial activities, the state could compete for those warehousing operations that are currently going to Ohio and Indiana.

In addition to providing employee wages and benefits, the warehousing and distribution facilities themselves usually represent significant capital investments on the part of the businesses building the facilities, and these investments also provide benefits to the local economy.

Response:

As passed by the Senate, the bill would have required a firm to pay an average weekly wage to its employees equal to or exceeding the average weekly wage paid to residents of the county where the facility is located. The House substitute removed this provision, so it is no longer exclusively aimed at higher-than-average-wage jobs.

Against:

The bill would allow the government to subsidize so-called "big-box" stores, such as Wal-Mart, that traditionally build their warehouses where they are needed, regardless of whether they receive tax breaks from the community. In their zeal to attract warehousing jobs, some local governments will bid against each other to give these large retailers tax abatements for locating in their communities, despite the fact that the locating of such warehouses is usually dictated by logistical issues and not local tax rates. The abatements will serve not so much as incentives as rewards.

Response:

The Michigan communities concerned about losing warehouses to Ohio and Indiana are located within a few miles of the border. While location, rather than taxes, does play a key role in the siting of warehouses and distribution centers (and retail-related businesses generally), compaines have shown themselves to be more than willing to move a few miles south into Ohio and Indiana to build regional distribution operations if it results in substantial tax savings.

Against:

The bill is too broad. It applies to buildings "used for warehousing, distribution, or logistic purposes," yet there is no clear definition of what "distribution purposes" or "logistic purposes" are. This could be interpreted very flexibly to apply to a wide range of commercial enterprises. While the problem is said to arise due to border competition, the bill would allow exemptions all over the state for these (vaguely defined) businesses.

POSITIONS:

The Department of Treasury testified in opposition to the bill. (9-13-05)

The following organizations indicated opposition to the bill as reported from committee: The United Food and Commercial Workers, Local 876; the International UAW; and the Michigan AFL-CIO. (9-13-05)

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