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BILL ANALYSIS

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Senate Bill 146 (as enacted)
PUBLIC ACT 581 of 2008
Sponsor: Senator Cameron S. Brown
Senate Committee: Economic Development and Regulatory Reform
House Committee: Commerce

Date Completed: 7-2-09

RATIONALE

Some communities in Michigan have failed to attract warehouses and other similar business operations because they have not been able to match property tax abatements being offered by communities in other states. As a result, Michigan has lost opportunities to attract high capital investment companies that pay good wages.

Reportedly, Lenawee County lost to another state a $200 million, 400,000 square foot facility that would have employed approximately 400 workers at $17 per hour plus benefits. When choosing to locate elsewhere, the company evidently cited the lack of a tax abatement in Michigan as a key reason. Several years ago, a company decided not to build a major warehouse and distribution facility in St. Joseph County because the county could not offer a property tax abatement to a warehousing operation under the plant rehabilitation and industrial development Act (commonly called PA 198). Evidently, the business then located the warehouse in northern Indiana, where it was granted a 50% property tax abatement.

In order to make this State competitive in attracting new business, it was suggested that the Act should allow local governments to exempt certain types of commercial facilities from property taxes.

CONTENT

The bill amended the plant rehabilitation and industrial development Act to redefine "qualified commercial activity" (which may qualify property for a tax exemption under an industrial facilities exemption certificate).

Under the Act, a local governmental unit, by resolution of its legislative body, may establish a plant rehabilitation or industrial development district that consists of one or more parcels or tracts of land or a portion of a parcel or tract of land. After a district has been established, the owner or lessee of a facility may file an application for an industrial facilities exemption certificate with the clerk of the local unit. A facility for which an industrial facilities exemption certificate is in effect, but not the land on which the facility is located or its inventory, is exempt from ad valorem real and personal property taxes.

The definition of "facility" includes a replacement facility and a new facility. "Replacement facility" generally means industrial property that is to be acquired, constructed, altered, or installed to replace or restore obsolete industrial property, and "new facility" means new industrial property other than a replacement facility to be built in a plant rehabilitation or industrial development district.

The definition of "industrial property" includes structures and equipment whose primary purpose is the operation of qualified commercial activity.

Previously, "qualified commercial activity" meant commercial property that met all of the following:

-- An application for an exemption certificate approved by the local governmental unit was filed for approval by the State Tax Commission by April 30, 2006.
-- At least 90% of the property, excluding the surrounding green space, was used for warehousing, distribution, and logistics

purposes that provided food for institutional, restaurant, hospital, or hotel customers.

-- The property was located within a village and was within 15 miles of a Michigan border.
-- It occupied one or more buildings or structures that together exceeded 300,000 square feet in size.

The bill defines "qualified commercial activity", instead, as commercial property that meets both of the following:

-- 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 is used for a communications center.
-- It occupies a building or structure that is larger than 100,000 square feet.

The bill took effect on January 16, 2009, and was tie-barred to House Bill 6611, which was enacted as Public Act 580 of 2008 and took effect on the same date. House Bill 6611 amended the Michigan Business Tax Act to allow the Michigan Economic Growth Authority to enter into agreements to provide tax credits to stimulate the domestic commercialization and affordability of high-power energy batteries.

MCL 207.552

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 part because of certain tax abatements and other incentives, Indiana has been winning the battle for warehousing and distribution centers and the good jobs that they bring. Reportedly, Performance Foods considered locating a warehouse and distribution center in St. Joseph County where it would have paid an average weekly wage that was higher than the county average. Eventually, Performance Foods decided to locate in northern Indiana where it received a 10-year, 50% tax abatement that St. Joseph County could not match. Lenawee County also lost the opportunity to attract a new facility that would have cost about $200 million to build and equip and could have employed 400 residents.

In addition to providing jobs, warehousing and distribution facilities usually represent significant capital investments on the part of the businesses building the facilities. The facilities that may be attracted to the State, under the bill, will not be low-end, low-wage warehouses with small work forces, but will be large businesses with many well paying jobs, the kind Michigan needs.

Response: There is no information on prevailing wages for the types of jobs targeted by the bill, and there is no way to know in advance that any jobs created under the bill will have good pay and benefits.

Opposing Argument

The bill applies to businesses besides warehouses, including commercial property used for distribution or logistics purposes and communication service centers. The focus of the bill should have been narrower to reflect the goal of giving border counties a competitive edge in attracting warehouses.

Response: Limiting the scope of the bill essentially would have limited potential investment and job creation in Michigan.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill will reduce local unit revenue, increase School Aid Fund expenditures, and depending upon how many State education tax mills are included under a certificate, reduce State School Aid Fund revenue. The fiscal impact depends upon the number of additional properties affected, as well as their specific characteristics. In general, the bill will reduce property taxes upon a facility by approximately 1% of the value of the facility. Under the average statewide rate on commercial property, the bill will reduce the property taxes on affected facilities by at least $12,000 per facility. The allocation of the fiscal impact across local units and the School Aid Fund will depend upon local property tax rates.

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.