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BILL ANALYSIS

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Senate Bill 294 (as enacted)

PUBLIC ACT 231 of 2008

Sponsor: Senator Mark C. Jansen

Senate Committee: Economic Development and Regulatory Reform

House Committee: Commerce

Date Completed: 9-9-08

RATIONALE

In some areas of the State, residents do not have convenient access to supermarkets or other food outlets that sell fresh and healthy food. According to the Michigan Food Policy Council's October 2006 Report of Recommendations, research has shown that these "food deserts" are linked to an above-average prevalence of chronic health issues and related deaths. Food deserts typically are in low-income neighborhoods, areas with substandard housing, and/or communities in need of rehabilitation. In order to promote community revitalization and increase access to fresh food, it was suggested that property tax abatements could encourage grocers to locate in underserved areas.

CONTENT

The bill amended the Commercial Rehabilitation Act to include a retail supermarket, grocery store, produce market, or delicatessen in an underserved area as a "qualified facility".

The Act allows a qualified local governmental unit (a city, village, or township) to establish a commercial redevelopment district consisting of a qualified facility (unless the county containing the district disapproves it). A qualified facility is a building or group of buildings that is commercial property meeting criteria specified in the Act. The owner of a qualified facility may apply for a commercial rehabilitation exemption certificate. If a certificate is granted, the building or group of buildings is exempt from ad valorem taxes under the General

Property Tax Act and subject to the commercial rehabilitation tax, which essentially freezes the taxable value of the facility for the duration of the certificate. A certificate may be issued for one to 10 years.

The bill amended the definition of "qualified facility" to include a "qualified retail food establishment". The bill defines that term as property that meets all of the following:

- It will be used primarily as a retail supermarket, grocery store, produce market, or delicatessen that offers fresh USDA-inspected meat and poultry products, fresh fruits and vegetables, and dairy products for sale to the public.
- It is located in a qualified local governmental unit that 1) also is located in a qualified local governmental unit as defined in the Obsolete Property Rehabilitation Act and is located in an underserved area; or 2) is designated as rural as defined by the U.S. Census Bureau and is located in an underserved area.
- It was used as residential, commercial, or industrial property as allowed and conducted under the applicable zoning ordinance for the immediately preceding 30 years.

The bill defines "underserved area" as an area determined by the Michigan Department of Agriculture that contains a low- or moderate-income census tract and a below-average supermarket density, an area that has a supermarket customer base with

more than 50% living in a low-income census tract, or an area that has demonstrated significant access limitations due to travel distance.

(Under the Obsolete Property Rehabilitation Act, "qualified local governmental unit" refers to a city or township that has a median family income of 150% or less of the statewide median family income and meets certain population criteria, contains an eligible distressed area as defined in the State Housing Development Authority Act, or is the central city of a metropolitan area designated by the U.S. Office of Management and Budget; a village with a population of 500 or more located in an area that was designated as a rural enterprise community before 1998; or a city that meets criteria pertaining to population, location, and below-average increase in State equalized valuation.)

The Commercial Rehabilitation Act prohibits the legislative body of a qualified local governmental unit from approving an application for a commercial rehabilitation exemption certificate unless the applicant complies with several requirements. Under these provisions, the rehabilitation of the qualified facility must not begin earlier than six months before the applicant files the application. Under the bill, through December 31, 2009, for a qualified retail food establishment, the rehabilitation must not begin earlier than 36 months before the application is filed.

The Act also requires the applicant to state, in writing, that the rehabilitation of the qualified facility would not be undertaken without the applicant's receipt of the exemption certificate. The bill excludes qualified retail food establishments from this requirement through December 31, 2009.

Under the Act, a commercial rehabilitation district must be at least three acres in size unless it is located in a downtown or business area, as determined by the legislative body of the qualified local governmental unit. Under the bill, a district also may be less than three acres in size if it contains a qualified retail food establishment, as determined by the local legislative body.

The Act defines "rehabilitation" as changes to a qualified facility that are required to

restore or modify the property to an economically efficient condition. Under the bill, rehabilitation for a qualified retail food establishment also includes new construction.

In addition, the definition of "rehabilitation" includes certain major renovations and modifications "and other physical changes required to restore or change the property to an economically efficient condition". The Act previously referred to "obsolete property" in this provision; the bill deleted the reference to "obsolete".

The bill took effect on July 17, 2008.

MCL 207.842 & 207.848

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

According to the October 2006 report of the Michigan Food Policy Council, which was created by Executive Order 2005-13, most Americans do not consume the recommended daily intake of fresh fruits and vegetables, and a growing number of public health issues are linked to food. These include heart disease, diabetes, high blood pressure, stroke, osteoporosis, arthritis, and some types of cancer. Also, according to the Council, the prevalence of overweight children between the ages of six and 11 more than doubled between 1984 and 2004, and more than one out of every 10 high school students in Michigan was overweight in 2005. While a number of factors play a role in these trends, insufficient access to healthy eating options is a significant contributor.

The Council's report states, "Many studies document the lack of supermarkets in poor communities and communities of color. In some areas, wealthy communities have been shown to have over three times the number of supermarkets as lower-income communities. This lack of supermarkets is compounded by a lack of access to convenient and reliable transportation options for poor people looking to purchase fresh and nutritious foods." If residents of food deserts cannot travel to mainstream grocery stores, their only option is to shop

at "fringe food" locations: outlets that specialize in alcohol, cigarettes, lottery tickets, money orders, and other nonfood products. Typically, what little fresh food they do offer costs more than it would elsewhere.

In addition to providing access to fresh and healthy food, the presence of a grocery store in an underserved area can provide the necessary "anchor" for community economic development, as well as create job opportunities. By extending the Community Rehabilitation Act to supermarkets, grocery stores, delis, and produce markets in underserved areas, the bill gives local units a tool to encourage the development of these facilities through property tax abatements.

Response: Not all food deserts are in low-income areas. In some communities, neighborhood renovations are placing mid- or high-priced housing in downtown areas that also are underserved by supermarkets and grocers. The bill's definition of "underserved area", however, could disqualify these local units.

Supporting Argument

Because the Act's definition of "rehabilitation" contained a reference to "obsolete" property, some communities apparently were unable to create rehabilitation districts in neighborhoods that do not contain obsolete property. According to testimony on behalf of the Michigan Municipal League (MML), 19 communities contacted the MML with interest in using this economic development tool, and several—including Grosse Pointe, Madison Heights, and Zeeland—were delaying rehabilitation projects until the Act was amended. An exemption certificate cannot take effect without the approval of the State Tax Commission, which evidently would not grant its approval unless a facility qualified as obsolete under the Obsolete Property Rehabilitation Act. Removing the word "obsolete" enables the Commission to approve certificates for nonobsolete property, and enables municipalities to proceed with community revitalization efforts.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

To the extent that property would be rehabilitated absent the bill, the bill will reduce local unit revenue by an unknown amount, depending upon the number and value of the facilities affected by the bill. The number of facilities affected is likely to be minimal due to the fact that most underserved areas exist because the local economy is unable to support many types of establishments. Most rural areas exhibit low millage rates and the tax reduction under the Act relates only to the value of improvements made to the property. Compared to the more significant economic factors affecting establishments, it is unlikely that such a reduction in taxes will have a meaningful impact on the economic viability of an establishment.

The bill may reduce local unit revenue to the extent that it increases the number of commercial redevelopment districts. The amount of the reduction will depend upon the specific characteristics of the property affected by the bill. On the other hand, the bill could possibly reduce the revenue loss to some local units relative to the original law if the change allows districts to be drawn more compactly by eliminating the requirement for districts to contain obsolete property.

The bill will have no fiscal impact on State government.

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.