



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

BILL ANALYSIS



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

Senate Bill 1111 (as passed by the Senate)
Sponsor: Senator Cameron S. Brown
Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 4-21-06

RATIONALE

Officials from many Michigan communities, particularly those along the State's southern border, claim that they are unable to attract warehousing, distribution, and logistic (TDL) operations because they cannot offer the companies the same tax abatements that are offered in Indiana and Ohio. One avenue for Michigan communities to provide tax abatements is under the plant rehabilitation and industrial development Act, commonly called PA 198. This Act allows a local unit of government to establish a plant rehabilitation district or an industrial development district, or both, that contains industrial property. The owner of a new or replacement facility in the district may receive an industrial facilities exemption certificate, which exempts the facility from ad valorem property taxes and subjects it to the industrial facilities tax (which is approximately 50% of what the property tax would be, plus the State education tax).

In order to qualify for an exemption certificate, the industrial property must be used for one of the purposes specified in the Act. Under provisions added by Public Act 267 of 2005, these purposes include the operation of qualified commercial activity. The definition of "qualified commercial activity" was written to apply to a food service operation that had been considering a site in the Village of Constantine (but subsequently located in Indiana). It has been suggested that qualified commercial activity should be expanded to any TDL facility, or a communication service center, of a certain size.

CONTENT

The bill would amend the definition of "qualified commercial activity" in the plant rehabilitation and industrial development Act to revise the criteria for a warehousing, distribution, or logistics facility, and include a communication service center.

Currently, "qualified commercial activity" means commercial property (as defined in the Obsolete Property Rehabilitation Act) that meets all of the following:

- An application for an exemption certificate approved by the local governmental unit is filed for approval by the State Tax Commission by April 30, 2006.
- At least 90% of the property, excluding the surrounding green space, is used for warehousing, distribution, and logistic purposes that provide food for institutional, restaurant, hospital, or hotel customers.
- The property is located in a village and is within 15 miles of a State border.
- The property occupies one or more buildings or structures that exceed 300,000 square feet in size.

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

- It is used for warehousing, distribution, or logistic purposes or for a communication service center.
- It occupies a building or structure that exceeds 100,000 square feet in size.

MCL 207.552

BACKGROUND

Before Public Act 267 of 2005 was enacted, Senate Bill 175 would have defined "qualified commercial activity", for the purpose of a tax abatement under PA 198, as commercial property that met all of the following:

- It was used for warehousing, distribution, or logistic purposes or a communication service center.
- It occupied a building or structure larger than 150,000 square feet.
- It paid an average weekly wage to its employees equal to or exceeding the average weekly wage paid to residents of the county in which the facility was located.

Senate Bill 175 was passed by both houses of the Legislature but vetoed by Governor Granholm. According to the veto message, proponents of the bill asserted that it would authorize tax abatements needed to address competitive disadvantages faced by Michigan communities near the Indiana border seeking to attract commercial warehousing and distribution centers, but the bill would have gone well beyond that purpose. The Governor stated that tax abatements can be an appropriate tool when targeted to foster the activity sought and if other options are not effective. The bill, however, through the use of "undefined terminology and an overbroad application of abatements", represented "an unfocused and fiscally undisciplined approach".

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

Today's warehousing and distribution centers are sophisticated operations that provide their employees with good pay and benefits, and make significant capital investments in their facilities, thus benefiting the local economy and, indirectly, the State economy as well. Many local governments in Michigan, Ohio, and Indiana compete against each other to recruit these businesses. Michigan communities, however, cannot offer the tax abatements available elsewhere, and have failed to attract operations that located just across

the border. One example involves the Performance Food Group, which in 2003 was considering St. Joseph County as a distribution site, where it was expected to create 400 jobs (paying an hourly wage of about \$18) and invest approximately \$15 million. Eventually, Performance Foods chose to locate in northern Indiana where it received a 10-year, 50% tax abatement that St. Joseph County could not match. A more recent example is the SYSCO Corporation's February 2006 announcement that it had decided to locate its Midwest redistribution center in Hamlet, Indiana, where it evidently will construct a 700,000-square-foot building and create 450 new jobs. Reportedly, South Bend, Indiana, brought in five distribution centers within the last five years, and Stark County, Indiana, recently attracted a Pennsylvania-based homebuilder, Toll Brothers, which plans to build a distribution center employing 300 people.

Michigan communities cannot afford to continue losing these capital investments and high-paying jobs to neighboring states. By making TDL facilities and commercial service centers eligible for PA 198 tax abatements, the bill would enable local units in this State to compete successfully for those operations.

Opposing Argument

Like the proposal that the Governor vetoed earlier this session, this bill would take an overly broad approach and use undefined terminology. If Michigan's primary competition for commercial facilities comes from Indiana or Ohio, then the bill should target communities in proximity to the border, as the current definition of "qualified commercial activity" does. That definition also requires 90% of the property, excluding green space, to be used for a specific purpose. Under the bill, however, a facility that used any portion of its property for warehousing apparently could qualify for a tax abatement.

Response: With an unemployment rate of 6.8%, the State needs jobs in all regions, not just in southern Michigan. Limiting the bill to border communities would deny municipalities throughout the State the ability to attract development by offering tax abatements.

Opposing Argument

In light of the State's poor economy and the efforts that are being made to repeal the

single business tax, this is not a good time to enlarge tax abatements. The State School Aid Fund, local units, and school districts cannot afford to forego any revenue during this period of economic uncertainty.

Response: If a company chooses not to locate in a Michigan community, the local unit and the State lose the entire amount of any taxes that otherwise would be paid, as well as the capital investment, employment, and commerce that would be generated. On the other hand, if the company locates a facility in Michigan because it receives a PA 198 abatement, the only lost revenue is approximately 50% of property taxes for up to 12 years, while the State and the community enjoy the economic benefits and tax revenue that would not exist without the facility.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce State and local unit revenue by an unknown amount. It is unknown how many additional facilities might be eligible for an exemption certificate as qualified commercial activity under the bill, or the characteristics and location of the property. The actual amount of the reduction would depend upon the characteristics of the property and the type of certificate granted. Any impact would reduce School Aid Fund revenue, local unit revenue, and local school district revenue. Reductions to local school district revenue would be offset by increased expenditures from the School Aid Fund in order to maintain per-pupil funding guarantees.

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.