

## PA 198 EXCEPTIONS

House Bill 5963 as enrolled (Vetoed)  
Second Analysis (10-15-96)

Sponsor: Rep. Robert Brackenridge  
House Committee: Local Government  
Senate Committee: Economic  
Development, International Trade, and  
Regulatory Affairs

### **THE APPARENT PROBLEM:**

The plant rehabilitation and industrial development act (Public Act 198 of 1974) allows local units of government to grant industrial facilities exemption certificates to new facilities and speculative buildings and to replacement facilities. The certificate, generally speaking, grants a property tax abatement to an industrial facility, which then pays a lower specific tax instead of regular property taxes. The act contains the process that must be followed and sets forth the requirements that must be met for a certificate to be awarded. Approval is required first at the local level, which must forward an approved application to the state. Approval is then required by the State Tax Commission, which must check to see if the law has been followed properly. The act requires, among other things, that the commencement of the restoration, replacement, or construction of the facility occur not earlier than six months before the filing of the application for the exemption certificate with the local unit. Numerous exceptions have been written into the statute in the past to cover cases where all parties were agreeable to the granting of an exemption but through errors or misunderstandings the technical requirements of the law were not met. A number of new such cases have recently come to light.

### **THE CONTENT OF THE BILL:**

House Bill 5963 would amend the plant rehabilitation and industrial development act to allow two exceptions to the act's procedural requirements. The exceptions would apply to:

1) a case in which a local unit passed a resolution on December 29, 1986 approving an exemption certificate for 10 years, but the state tax commission did not receive the application until 1992 and the application was not made complete until 1995. The certificate would be in effect beginning December 30, 1987 and ending December 30, 1997.

2) a facility located in an existing industrial development district occupied by a person who filed an application for a certificate in June of 1995 if the application was approved by the local unit in October of 1995 for construction that began in November or December of 1994.

3) a facility located in an existing industrial development district whose owner filed an application in June of 1995 if the application was approved by the local unit in July of 1995 and the personal property portion of the application was approved by the state tax commission in November of 1995.

4) a facility located in an existing industrial development district occupied by a person who filed an application for a certificate in July of 1991 if the application was approved by the local unit in October of 1996 for construction that was commenced in January of 1991.

MCL 207.557 and 207.559

### **FISCAL IMPLICATIONS:**

The House Fiscal Agency has noted, in a fiscal note addressing an earlier version of the bill, that the revenue impact is indeterminate based on the number of certificates to be issued and whether the exemption was already being granted at the local level in the interim. (Fiscal Note dated 9-9-96.)

### **ARGUMENTS:**

#### **For:**

The bill would allow four industrial property tax abatements in various parts of the state to be validated as exceptions to the technical requirements of Public Act 198. There are a number of precedents for this. The

legislature has on numerous occasions provided this kind of exception in cases where the spirit of the abatement law has been met but certain technical requirements have not been met.

***Against:***

While it is true that these sort of exceptions have become common practice, it remains the case that there are reasons the statute contains a specific process and specific deadlines, and it should not too be much to ask for companies and local units of government to follow the law when seeking and granting property tax exemptions. And, as the governor's veto message, dated 10-14-96, notes:

*There has been a growing trend to use legislation to circumvent well-established statutory deadlines for the industrial property tax abatement program. Over the last two years, six such "legislative fixes" have been used to provide exceptions for companies and local units not fulfilling these requirements. Enrolled House Bill 5963 grants exceptions to four applications; the exceptions are for facilities which have already located in the area and could or do benefit from the industrial facilities certificates already issued. Industrial property tax abatements are economic development tools which should be used to encourage new business investment in a specific area, not as a reward for investment which has already occurred.*

*In addition, this bill represents the first attempt to reverse a determination by the State Tax Commission of whether a facility is a rehabilitation project or new construction. I do not believe this is a good precedent to set.*

*Finally, one of the amendments adopted . . . does not correctly identify the filing date of the application for which the exceptions was intended, rendering the provision ineffective for that application.*

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.