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 126 (Substitute S-1 as reported)
Sponsor: Senator Jason E. Allen
Committee: Economic Development and Regulatory Reform

Date Completed: 2-13-09

RATIONALE

Under the plant rehabilitation and industrial development Act, commonly referred to as P.A. 198, local units of government, with the approval of the State Tax Commission, may grant industrial facilities exemption certificates to new and speculative buildings and replacement facilities located in a plant rehabilitation or industrial development district. A certificate essentially grants a property tax abatement to an industrial facility located on industrial property, which then is subject to an industrial facilities tax that is lower than standard property taxes. After the Attorney General ruled in 1999 that a merchant electric generating plant was not "industrial property" eligible for an industrial facility tax exemption (OAG 7027, 8-5-99), Public Act 140 of 1999 amended the definition of "industrial property" in P.A. 198 to include an electric generating plant not owned by a local unit of government, but only for applications for a tax exemption certificate approved by a local unit between June 30, 1999, and June 30, 2002. Public Act 280 of 2002 extended the local approval deadline to December 31, 2007.

A proposed development of an electric generating plant in Mancelona, in northern Michigan, is in the fund-raising stage. The project's proponents hope to raise $140.0 million to build a wood-fired (biomass) power plant. The plant would burn wood chips and other wood waste products to create enough electricity to fuel about 30,000 homes. In order for the developers to attract the funding to make this project successful, they believe they need significant tax incentives like qualification as industrial property under P.A. 198. Therefore, it has been suggested that local units again should have the ability to approve P.A. 198 certificates for electric generating plants.

CONTENT

The bill would amend the plant rehabilitation and industrial development Act to reinstate and extend through the end of 2013 a provision under which a local legislative body could approve an exemption certificate for an electric generating plant not owned by a local unit of government.

For exemption certificate applications approved by the legislative body of a local governmental unit between June 30, 1999, and December 31, 2007, the definition of "industrial property" includes an electric generating plant that is not owned by a local unit of government, including an electric generating plant fueled by biomass. In addition, the definition specifically excludes property of a public utility other than a plant that meets this description. Under the bill, the definition would include an electric generating plant not owned by a local unit, including a plant fueled by biomass, for applications approved by a local unit's legislative body between June 30, 1999, and December 31, 2013.

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

According to information supplied to the Senate Economic Development and Regulatory Reform Committee by the Northern Lakes Economic Alliance, the Mancelona Renewable Resources Company is in the process of raising funds to build a cogeneration, wood-fired power plant. The power plant would burn wood chips and slash (waste wood) to create steam that would turn a turbine to create electricity. By burning about 400,000 tons of wood per year, the completed plant would create 36 Mw of electricity, or enough to fuel 30,000 homes, and would employ about 30 full-time workers and create hundreds of ancillary jobs. The construction project also would create about 150 temporary jobs. In addition, the proposed plant's success could lead to other job-creating and alternative energy-generating opportunities. These jobs and the potential for future development could be a boon to a small community in a region of the State that has been hit particularly hard by the current economic downturn. In order for the company to secure the funding it needs to achieve its goals, however, its principals believe they need the tax relief available under P.A. 198. The provision of that Act under which electric generating plants previously could be approved for an industrial facilities tax exemption should be reinstated and extended to assist the project in Mancelona and spur the creation of new jobs and more energy-efficient technologies.

Response: The bill should be tailored to assist the particular project in Mancelona. Also, perhaps some form of assistance in financing, developing, and operating the plant, other than a property tax exemption, could be more beneficial in getting this project off the ground without having an adverse effect on the School Aid Fund, which would have to be used to maintain per-pupil funding.

Opposing Argument

The Act is designed to attract business development into Michigan, but power plants that would serve Michigan customers are highly likely to locate in this State with or without a tax exemption. Providing P.A. 198 eligibility to power plants does not offer any particular incentive for a company to locate in Michigan, and extending that eligibility to power-generation plants could result in all power plants seeking a P.A. 198 tax exemption certificate, which could come at great expense to the School Aid Fund.

Response: Including electric power plants in the Act's definition of "industrial property" has a proven track record. According to the House Fiscal Agency analysis of the 2002 legislation that extended the local approval deadline to December 31, 2007, supporters of the P.A. 198 tax abatement claimed that it had attracted 15 new generating plants to Michigan communities, expanding the State's power-generation capacity and creating new jobs.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would reduce local unit revenue, and increase required expenditures from the School Aid Fund, by an unknown amount. The bill also could reduce revenue to the School Aid Fund by an unknown amount under certain circumstances. The magnitude of the changes could be significant, but based on recent history the likely impact would be minimal.

Under the statute, exemption certificates must be approved by the local unit in which the property is located and, once approved, they reduce the non-State Education Tax property taxes by 50%. The State receives revenue from both the State Education Tax and the portion of property tax revenue attributable to mills levied for school operating purposes on nonhomestead property. The latter revenue source reflects a tax rate of 9 mills, because without the exemption certificate the school district would receive 18 mills. As a result, the bill would increase revenue received by the State, assuming the investments would not occur absent the bill. However, the bill would reduce property tax revenue received by local units, including revenue from what would otherwise be 18 mills levied on nonhomestead property for school operating purposes. Reductions in local school district revenue would increase School Aid Fund expenditures in order to maintain per-pupil funding guarantees, and the magnitude of the change would be approximately 50% more than any increase in revenue from the State Education Tax.

For new facilities, the State Treasurer may exclude half of the mills under the State

Education Tax. To the extent that such an exemption was granted, the bill also would reduce School Aid Fund revenue.

The actual impact of the bill would depend on a number of circumstances, including the number of certificates granted between now and 2013, the value of the plants affected, and the average value per megawatt of capacity for those plants. Occasionally, these plants are located in a Michigan renaissance zone, where a plant would pay even less in property taxes and would not be affected by the bill. To the extent that plants located in renaissance zones, the fiscal impact of the bill also would be lower.

Fiscal Analyst: David Zin

A0910\s126a
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.