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**SFA****BILL ANALYSIS**

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Senate Bill 435 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Joanne G. Emmons  
Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 8-15-97

### **RATIONALE**

Several years ago, the City of Mt. Pleasant purchased approximately 250 acres of land and annexed it to the city. The city evidently had plans for the land that involved many different uses, including new housing, schools, community health facilities, industrial uses, and even Michigan State Police facilities. Mt. Pleasant officials apparently determined that, due to the variety of uses planned for the property, the land and projects could not be converted to a tax-exempt economic development corporation under the Economic Development Corporations Act. Instead, the city believed its holdings to be tax-exempt under the General Property Tax Act because the newly purchased land was held for a "public purpose".

The city sold some of the land to, or designated it for use by, other public entities. From the remaining land, the city plotted two small subdivisions in 1992 to be developed on the new property, and the assessor placed that land on the tax rolls. While the land in question was intended to be put on the tax rolls when sold, the assessor deemed the property taxable while still owned and being developed by the city. The city paid the tax bill on the land, but is appealing the assessor's determination based on its belief that the city's ownership of the land falls under the Property Tax Act's public purpose exemption. In 1995, according to city officials, an Assistant Attorney General representing the State Tax Commission determined that the remaining vacant land--not just that plotted for the subdivisions--was not held for a public purpose and should be placed on the tax rolls back to 1993. This apparently would amount to a significant tax liability for the City of Mt. Pleasant. The city reportedly has been told by tax officials that, to ensure the land's tax-exempt status, it should have established an economic development corporation. Some people believe

that the General Property Tax Act's public purpose exemption should be modified to specify that it includes property held for economic development purposes. In addition, since Mt. Pleasant officials determined that the city's newly acquired land and intended uses did not meet the Economic Development Corporations Act's definition of "project" and proceeded under a good faith expectation that the land was tax-exempt under the Property Tax Act, they feel that any change in the Property Tax Act's public purpose provision should be retroactive to 1992.

### **CONTENT**

The bill would amend the General Property Tax Act to specify that "public purpose", in the Act's exemption from taxation of publicly owned property used for a public purpose, would include, but not be limited to, property held for the purpose of economic development. The bill would be retroactive and take effect on January 1, 1992.

MCL 211.7m

### **BACKGROUND**

The General Property Tax Act provides that property that is owned, or is being acquired under an installment purchase agreement, by a county, township, city, village, or school district and is used for a public purpose is exempt from taxation under the Act. The Act also exempts property owned or being acquired by an agency, authority, instrumentality, nonprofit corporation, commission, or other separate legal entity composed solely of or wholly owned by, or whose members consist solely of a political subdivision, a combination of political subdivisions, or a combination of political subdivisions and the State if the property is used to

carry out a public purpose.

Under the Economic Development Corporations Act, “project” means land or an interest in land, existing or planned improvement, machinery, furnishings, or equipment suitable for use by either of the following:

- An industrial or commercial enterprise, including agricultural and forestry enterprises and enterprises designed to produce energy from renewable resources.
- An enterprise in relation to a housing and neighborhood improvement program that involves either the clearing of land or the rehabilitation or construction of housing for the immediate sale of single family or multifamily units at fair market value, or both. Housing and neighborhood improvement programs constitute a project if the area in which the improvement programs are to be undertaken is located in, or is eligible to be included in, blighted or redevelopment areas identified pursuant to Public Act 344 of 1945, which provides for the rehabilitation of blighted areas; the Urban Redevelopment Corporations Law; the downtown development authority Act; or the Tax Increment Finance Authority Act.

Projects of an industrial or commercial enterprise may include: necessary buildings, improvements, or structures for, or incidental to, the enterprise; industrial park, industrial site, or port improvements; a replacement housing project incidental to an industrial or commercial enterprise; the machinery, furnishings, leasehold improvements, or equipment for, or incidental to, a commercial, industrial, or residential use; machinery, furnishings, leasehold improvements, or equipment, including pollution control facilities, to be installed or used primarily within a project area.

## **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**

The City of Mt. Pleasant purchased land and annexed it to the city with the aim of using some of the land for economic development purposes. If these projects had been designated as economic development projects under the Economic Development Corporations Act, there is no question that the city's new land would have been exempt from property taxes. Although the city's

plan included the development of both industrial and residential sites, city officials felt that the projects did not meet the specific definition of “project” in the Economic Development Corporations Act. Instead, they proceeded under the belief that the land was held for a public purpose and, as such, was tax-exempt under the General Property Tax Act.

It was several years into the various projects for the development of the land that the tax assessor ruled that a portion of the land, on which the city had plotted two small subdivisions, was taxable even before the city sold the property. In the process of pursuing an appeal of that interpretation, the city was told that all of the remaining vacant land from the purchased parcels should have been on the tax rolls. The General Property Tax Act, however, provides that property owned by a city and used for a public purpose is exempt from taxation under the Act. Mt. Pleasant officials deemed their use of the land a public purpose because they intended it to be used for economic development purposes. The land should be taxed after sale, according to the city, but not while being developed for residential and industrial uses and owned by the city.

It is apparent that the public purpose provision of the General Property Tax Act is vague as to what uses are included in the exemption. A city's development of land to sell and bring it onto the tax rolls once developed surely constitutes a “public purpose”. The Act should be amended to specify that land held by a public entity for economic development purposes would be considered to be owned for a public purpose. Further, since the City of Mt. Pleasant has proceeded with the development of its property in good faith and under the belief that the land was tax-exempt under the Property Tax Act, the bill should be made retroactive to cover that city's situation.

**Response:** Expanding the public purpose exemption in the Property Tax Act and giving Mt. Pleasant the benefit of a retroactive tax break might encourage municipalities to get into the business of land development, which would give them an unfair competitive advantage over private developers.

### **Opposing Argument**

Mt. Pleasant officials apparently misinterpreted Michigan law. There is ample opportunity for the public development or rehabilitation of land under other statutes, but the city did not avail itself of those options. For instance, the city could have established an economic development corporation and pursued projects on the land under the Economic Development Corporations Act, but it

chose not to do so. The Legislature should not rescue a municipality from its own mistakes. Local officials should have been aware of the procedures necessary to pursue the projects properly rather than assuming they complied with the Property Tax Act's public purpose provision.

**Response:** Mt. Pleasant officials believed they were doing the right thing by not designating the property for economic development corporation projects, because they determined that their plans did not meet the specific definition of "project" under the Economic Development Corporations Act. The city believed that plans for development of the property did satisfy the public purpose tax exemption in the Property Tax Act. The good faith efforts of city officials should not be punished by holding Mt. Pleasant to a significant tax liability from which it believed it was exempt.

Legislative Analyst: P. Affholter

#### **FISCAL IMPACT**

The bill, which is retroactive and would take effect January 1, 1992, would include property held for the purpose of economic development in the definition of "public purpose", which refers to property that is exempt from the property tax. The fiscal impact for local units of government would depend on the millage rates and the taxable value of the land involved.

Fiscal Analyst: R. Ross

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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.