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BILL



ANALYSIS

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Senate Bill 126 (as enacted)

PUBLIC ACT 209 of 2009

Sponsor: Senator Jason E. Allen

Senate Committee: Economic Development and Regulatory Reform

House Committee: New Economy and Quality of Life

Date Completed: 5-24-10

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 group in Mancelona, in northern Michigan, is in the early stages of developing a wood-fired (biomass) electric generating 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 felt they needed significant tax incentives like qualification as industrial property under P.A. 198. Therefore, it was suggested that a local unit be granted the ability to approve a P.A. 198 certificate for a biomass-fueled

electric generating plant that meets certain qualifications.

CONTENT

The bill amended the plant rehabilitation and industrial development Act to specify that, for an industrial development district created before July 1, 2010, "industrial property" includes an electric generating plant fueled by biomass that is not owned by a local unit of government if the plant meets the qualifications described below.

To qualify under the bill, the electric generating plant must involve the reuse of a Federal Superfund site remediated by the U.S. Environmental Protection Agency, and an independent study must have concluded that the electric generating plant would not have an adverse effect on the area's wood supply. An electric generating plant described under the bill is presumed not to have an adverse impact on the wood supply of the area from which it would be derived if the company has a study funded by the U.S. Department of Energy and managed by the Department of Energy, Labor, and Economic Growth that concludes that the electric generating plant will consume not more than 7.5% of the annual wood growth within a 60-mile radius of the electric generating plant.

The bill took effect on January 4, 2010.

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 by the Northern Lakes Economic Alliance, the Mancelona Renewable Resources Company is in the process of securing use and environmental approval to build a cogeneration, wood-fired power plant in Antrim County. When it is completed and is operating, the power plant will burn wood chips and slash (waste wood) to create steam that will turn a turbine to create electricity. By burning about 400,000 tons of wood per year, the completed plant will create 36 Mw of electricity, or enough to fuel 30,000 homes, and will employ about 30 full-time workers and create hundreds of ancillary jobs. The construction project also is expected to create about 150 temporary jobs. In addition, the plant's success may 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 needed to proceed, however, its principals believe that tax relief available under P.A. 198 is necessary. The provision of that Act under which electric generating plants previously could be approved for an industrial facilities tax exemption had expired. The bill's authorization for an exemption for an electric generating plant fueled by biomass has assisted the project in Mancelona to develop accurate financial projections and promises to spur the creation of new jobs and more energy-efficient technologies.

Response: Perhaps some form of assistance in financing, developing, and operating the plant, other than a property tax exemption, could have been as beneficial in getting this project off the ground without having an adverse effect on the School Aid Fund, which will have to be used to maintain per-pupil funding in the school district where the plant will be located.

Opposing Argument

The Act is designed to attract business development into Michigan, but power plants that 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 might encourage other power plants to seek 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. Moreover, the exemption authorized under the bill is limited to a biomass-fueled plant that meets specific criteria. It appears that only the plant in Mancelona qualifies for a P.A. 198 abatement under the bill.

Opposing Argument

Reportedly, there are at least six wood-fired power-generation plants already operating in Michigan. These existing facilities are not eligible for a P.A. 198 tax abatement, so they will be at a competitive disadvantage with the Mancelona plant. In addition, bringing another wood-fired plant on line might deplete available waste wood, or at least raise the rates for that resource, which could hinder the operations of other plants already up and running in northern Michigan.

Response: The bill requires an independent study to conclude that the plant would not have an adverse effect on the area's wood supply.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill will reduce local unit revenue, and increase required expenditures from the School Aid Fund, by an unknown amount. The bill also may reduce revenue to the School Aid Fund by an unknown amount under certain circumstances. The magnitude of the changes might be significant, but based on recent history and that the bill is likely to affect a single property, the likely impact will 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 will increase revenue received by the State, assuming the investments would not occur absent the bill. However, the bill will 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 will increase School Aid Fund expenditures in order to maintain per-pupil funding guarantees, and the magnitude of the change will 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 is granted, the bill also will reduce School Aid Fund revenue.

The actual impact of the bill will depend on various 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 pays even less in property taxes and will not be affected by the bill. To the extent that plants locate in renaissance zones, the fiscal impact of the bill also will be lower.

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.