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Senate Bill 422 (as introduced 5-6-21)
Sponsor: Senator Ken Horn
Committee: Economic and Small Business Development

Date Completed: 5-20-21

CONTENT

The bill would enact the "Residential Housing Facilities Act" to do the following:

- **Allow a qualified local governmental unit to establish one or more residential housing districts by resolution of its legislative body.**
- **Require a qualified local governmental unit to notify the county in which the district would be located and the owners of real property within the proposed district and afford an opportunity for a public hearing, before adopting a resolution to establish a district.**
- **Allow the owner of a qualified residential facility, after the district was established, to file an application for a residential housing exemption certificate with the clerk of the local unit that established the district.**
- **Require an application to contain a general description of the qualified residential facility and a general description of the proposed use of the qualified residential facility, among other things.**
- **Require the legislative body of the qualified local governmental unit to hold a public hearing on the application before acting on an application.**
- **Require a clerk to forward a copy of the application and resolution to the State Tax Commission.**
- **Require the Commission to issue to an approved applicant a certificate that contained information concerning the qualified facility's taxable value and the period approved for the project to be completed, among other things.**
- **Require a certificate to be issued for a period of at least one year but not to exceed 12 years.**
- **Levy on each owner of a qualified facility to which a certificate was issued a residential housing facility tax calculated by multiplying one-half of the total mills levied as ad valorem taxes for that year by all taxing units within which the qualified residential facility was located by the current taxable value of the facility's real and personal property after deducting the taxable value of specified property.**
- **Provide exemptions to the tax levied under the proposed Act.**
- **Provide for the revocation and transfer of a certificate.**
- **By October 15 each year, require each qualified local governmental unit granting a certificate to report to the Commission on the status of each exemption.**

Definitions

Under the proposed Act, "residential housing district" or "district" would mean an area not less than one acre in size of a qualified local governmental unit established as provided by the Act. "Qualified local governmental unit" would mean a city, village, or township.

"Residential housing property" would mean that portion of real property that is intended to be occupied by the owner of that real property that is classified as residential real property under Section 34c of the General Property Tax Act, is a multiple-unit dwelling, or is a dwelling unit in a multiple-purpose structure, used for residential purposes, that is intended to be occupied by individuals whose yearly income is 120% or less of the area median income as determined by the qualified local governmental unit. The term would not include land or property of a public utility.

"Qualified residential facility" would mean a new residential facility or a rehabilitated residential facility. "New residential facility" would mean a residential housing property that is a new structure or a portion of a new structure which is or will be occupied by an owner as his or her principle residence. "Rehabilitated residential facility" would mean an existing residential housing property that has been renovated to bring the property into conformance with minimum local building code standards for occupancy, as determined by the qualified local governmental unit.

"Taxable value" would mean the value determined under Section 27a of the General Property Tax Act.

(Section 34c of the General Property Tax Act classifies residential real property as follows: a) platted or unplatted parcels, with or without buildings, and condominium apartments located within or outside a village or city, which are used for, or probably will be used for, residential purposes; b) parcels that are used for, or probably will be used for, recreational purposes, such as lake lots and hunting lands, located in an area used predominantly for recreational purposes; and c) for taxes levied after December 31, 2002, a home, cottage, or cabin on leased land, and a mobile home that would be assessable as real property under the General Property Tax Act.

Section 27a of the General Property Tax Act specifies that the taxable value of each parcel of property is the lesser of the property's taxable value in the immediately preceding year minus any losses, multiplied by a certain rate, plus all additions, or the property's current State equalized value, among other methods of determination.)

Establishment of a District

Under the proposed Act, a qualified local governmental unit could establish one or more residential housing districts by resolution of its legislative body. The legislative body of a qualified local governmental unit could establish a district on its own initiative or upon request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed district. The request would have to be filed with the clerk of the qualified local governmental unit.

Before adopting a resolution, the legislative body would have to notify the county in which the proposed district was to be located and the owners of all the real property within the proposed district. The legislative body would have to afford an opportunity for a hearing on the establishment of the district at which any of those owners and any other resident or taxpayer of the qualified local governmental unit could appear and be heard. The legislative body would have to give public notice of the hearing at least 10, and not more than 30, days before the date of the hearing.

In the resolution establishing a district, the qualified local governmental unit would have to set forth a finding and determination that there was a need for residential housing within the district and would have to provide a copy of the resolution by certified mail to the county in

which the district was located. Within 28 days after receiving a copy of the resolution, a county could reject the establishment of the district by one of the following methods:

- If the county had an elected county executive, by written notification to the qualified local governmental unit.
- If the county did not have an elected county executive, by a resolution of the county board of commissioners provided to the local qualified governmental unit.

Application Process

Under the Act, if a district were established, the owner of a qualified residential facility could file an application for a residential housing exemption certificate with the clerk of the qualified local governmental unit that established the district. The application would have to be filed in the manner and form prescribed by the State Tax Commission. The application would have to contain or be accompanied by a general description of the qualified residential facility, a general description of the proposed use of the qualified residential facility, the general nature and extent of the new construction or rehabilitation to be undertaken, a time schedule for undertaking and completing the qualified residential facility, and information relating to requirements of the Act described below.

After receiving an application for a certificate, the clerk of the qualified local governmental unit would have to notify the assessor of the local tax collecting unit in which the facility was located, and the legislative body of each taxing unit that levied ad valorem property taxes in the qualified residential facility was located. Before acting upon the application, the legislative body of the qualified local governmental unit would have to hold a public hearing on the application and notify the applicant, the assessor, a representative of the affected taxing units, and the general public. The hearing on each application would have to be held separately from the hearing on the establishment of the district.

The Act would require the legislative body of the qualified local governmental unit, not more than 60 days after the clerk received the application, to approve or disapprove it by resolution in accordance with the Act. The clerk would have to retain the original application and resolution, and if approved, the clerk would have to forward a copy of the application and resolution to the Commission. If disapproved, the reasons would have to be set forth in writing in the resolution, and the clerk would have to send, by certified mail, a copy of the resolution to the applicant and to the assessor. A resolution would not be effective unless approved by the Commission as described below.

Within 60 days after receiving a copy of the application and resolution, the Commission would have to approve or disapprove the resolution. After the application was approved by the legislative body of the qualified local governmental unit and the Commission, the Commission would have to issue to the applicant a certificate in the form it determined, which would have to contain all the following:

- A legal description of the real property on which the qualified residential facility was located.
- A statement that unless revoked as provided by the Act, the certificate would have to remain in force for the period stated in the certificate.
- A statement of the taxable value of the facility, separately stated for real and personal property, for the tax year immediately preceding the certificate's effective date after deducting the taxable value of the land and personal property other than personal property assessed under Sections 8(d) and 14(6) of the General Property Tax Act.

- A statement of the period of time authorized by the legislative body of the qualified local governmental unit within which the rehabilitation or construction would have to be completed.
- If the period of time authorized by the legislative body of the qualified local governmental unit as described above was fewer than 12 years, the certificate would have to contain the factors, criteria, and objectives, as determined by the resolution of the qualified local governmental unit, necessary for extending the period of time, if any.

(Section 8(d) of the General Property Tax Act states that, for taxes levied after December 31, 2001, personal property includes buildings and improvements located upon leased real property. Section 14(6) specifies that, for taxes levied after December 31, 2001, buildings and improvements otherwise exempt under the Act that are located upon the real property of the United States or of the State, or upon the real property of any person, firm, association, or corporation if the owner of the building is not the owner of the fee title to that real property must be assessed as personal property to the owner or occupant of the building in the local tax collecting unit in which the real property is located.)

The Act specifies that the effective date of the certificate would be the December 31 immediately following the date it was issued. The Commission would have to file with the clerk of the qualified local governmental unit a copy of the certificate, and would have to maintain a record of all certificates filed. The Commission also would have to send a copy of the certificate by certified mail to the applicant and the assessor of the local tax collecting unit in which the qualified residential facility was located.

Certificate's Effective Period

Under the Act, a qualified residential facility for which a certificate was in effect, but not the land on which the qualified residential facility was located, or personal property other than personal property assessed pursuant to Sections 8(d) or 14(6) of the General Property Tax Act , for the period on and after the certificate's effective date and continuing while the certificate was in force, would be exempt from ad valorem property taxes collected under the General Property Tax Act.

The Act specifies that, unless earlier revoked as provided by the Act, a certificate would have to remain in force and effect for a period to be determined by the legislative body of the qualified local governmental unit. The certificate would have to be issued for a period of at least one year, but not more than 12 years. If the number of years determined was fewer than 12, the certificate could be subject to review by the legislative body of the qualified local governmental unit and the certificate could be extended. The total amount of time determined for the certificate, including any extensions, could not exceed 12 years after the completion of the qualified residential facility.

The certificate would commence with its effective date and end on the December 31 immediately following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by appropriate authority, would have to be the date the qualified residential facility was completed.

If the number of years determined by the legislative body of the qualified local governmental unit for the period a certificate remained in force was fewer than 12 years, the review of the certificate for the purpose of determining an extension would have to be based upon factors, criteria, and objectives that would have to be placed in writing, determined and approved at the time the certificate was approved by resolution of the legislative body of the qualified local governmental unit and sent by certified mail to the applicant, the assessor of the local tax collecting unit in which the qualified residential facility was located, and the Commission.

Taxable Determination, Levy, & Disbursement

Under the Act, the assessor of the qualified local governmental unit in which there was qualified residential facility with respect to which one or more certificates had been issued and were in force would have to determine annually as of December 31 the value and taxable value, both for real and personal property, of each qualified residential facility separately, having the benefit of a certificate. After receiving notice of the filing of an application for the issuance of a certificate, the assessor also would have to determine and furnish to the local legislative body the value and the taxable value of the property to which the application pertained.

If the taxable value of the property proposed to be exempt by an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under the Act or under Public Act 198 of 1974, exceeded 5.0% of the taxable value of the qualified local governmental unit, the legislative body of that unit would have to make a separate finding and would have to include a statement in its resolution approving the application that exceeding that amount would not have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit. (Public Act 198 of 1974 governs plant rehabilitation districts and industrial development districts in local governmental units.)

The Act would prohibit the legislative body of the qualified local governmental unit from approving an application for a certificate unless the applicant was determined by the qualified local governmental unit to have a yearly income of 120% or less of the area median income.

Under the Act, there would be levied upon every owner of a qualified facility to which a certificate was issued a specific tax to be known as the residential housing facility tax. The amount of the specific tax, in each year, would be determined by multiplying half of the total mills levied as ad valorem taxes for that year by all taxing units within which the qualified residential facility was located by the current taxable value of the real and personal property of the qualified residential facility after deducting the taxable value of the land and of personal property other than personal property assessed under Sections 8(d) and 14(6) of the General Property Tax Act.

The specific tax would be an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the General Property Tax Act were payable. Except as otherwise provided below, the officer or officers would have to disburse the specific tax payments received by the officer or officers each year to and among the State, cities, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the General Property Tax Act.

For intermediate school districts (ISDs) receiving State aid under Sections 56, 62, and 81 of the State School Aid Act, of the amount of specific tax that otherwise would be disbursed to an ISD, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of State aid, would have to be paid to the State Treasury to the credit of the State School Aid Fund.

(Section 56 of the State School Aid Act governs State aid received by ISDs for the purpose of special education. Section 62 governs State aid received by ISDs for vocational-technical education. Section 81 governs State aid received by ISDs for professional development.)

The amount of specific tax determined as described above that would otherwise be disbursed to a local school district for school operating purposes would have to be paid instead to the State Treasury and credited to the State School Aid Fund.

The Act would require the officer or officers to send a copy of the amount of disbursement made to each unit under the Act to the Commission on a form it provided.

Exemptions

A qualified residential facility located in a renaissance zone under the Michigan Renaissance Zone Act would be exempt from the specific tax levied under the Act to the extent and for the duration provided under Michigan Renaissance Zone Act, except for that portion of the specific tax attributable to a special assessment or a tax described in section 7ff(2) of the General Property Tax Act. The specific tax calculated as described above would have to be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in Section 7ff(2) of the General Property Tax Act.

(Section 7ff(2) of the General Property Tax Act specifies that, except as otherwise provided, real and personal property in a renaissance zone is not exempt from collection of the following: a) a special assessment levied by the local tax collecting unit in which the property is located; b) ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors; and c) a tax levied under the Revised School Code.)

Lien on Certificate

The proposed Act specifies that the amount of tax applicable to real property, until paid, would be a lien upon the real property to which the certificate was applicable. Proceedings upon the lien as provided by law for the foreclosure in the circuit court of mortgage liens upon real property could commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the specific tax applicable to real property, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the qualified residential facility by certified mail, with the register of deeds of the county in which the qualified residential facility was situated.

Revocation, Reinstatement, & Transfer of Certificate

The legislative body of the qualified local governmental unit could revoke a facility's certificate by resolution if it found that the completion of the facility had not occurred within the time authorized by the legislative body in the certificate or a duly authorized extension of that time, or that the holder of the certificate had not proceeded in good faith with the operation of the qualified residential facility in a manner consistent with the purposes of the Act and in the absence of circumstances that were beyond the control of the holder of the certificate.

After receiving a request by certified mail to the legislative body of the qualified local governmental unit by the holder of a certificate requesting revocation of the certificate, the legislative body could revoke the certificate. Upon the written request of the holder of a revoked certificate to the legislative body of the qualified local governmental unit and the Commission or upon the application of a subsequent owner to the legislative body of the qualified local governmental unit to transfer the revoked certificate to a subsequent owner, and the submission to the Commission of a resolution of concurrence by the legislative body of the qualified local governmental unit in which the qualified residential facility was located, and if the qualified residential facility continued to qualify under the Act, the Commission

could reinstate a revoked certificate for the holder or a subsequent owner that had applied for the transfer.

The Act would allow a certificate to be transferred and assigned by the holder of the certificate to a new owner of the qualified residential facility if the qualified local governmental unit approved the transfer.

Reporting Requirements

The Act would require each qualified local governmental unit granting a certificate to report to the Commission on the status of each exemption by October 15 of each year. The report would have to include the current value of the property to which the exemption pertained, the value on which the specific tax was based.

Each year, the Department of Treasury would have to prepare and submit to the committees of the House of Representatives and Senate responsible for tax policy and economic development issues a report on the utilization of districts, based on the information filed with the Commission.

The Act specifies that after it had been in effect for three years, the Department would have to prepare and submit to the committees of the House of Representative and Senate responsible for tax policy and economic development issues an economic analysis of the costs and benefits of the Act in the three qualified local governmental units in which it had been most heavily utilized.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have a negative fiscal impact on the State and local governments. Exempting qualified residential facilities from property taxes would reduce revenue to local governments as well as reduce revenue and increase costs to the School Aid Fund (SAF). The exemption would reduce revenue for the State Education Tax and, since school operating mills also would be reduced, costs to the SAF would increase if the foundation allowance were maintained. Since any exemption would need to be approved by the local government, any fiscal impact would depend on decisions made by those units of government, as well as the specific characteristics of the exempted facilities.

The residential housing facility tax would be levied at roughly one half the millage rate from which the qualified property was exempted. The revenue from the tax would be distributed in the same manner as the exempted taxes, except for the described portion of millages for ISDs and school operating expenses, which would be distributed to the SAF. This distribution would reimburse local governments and the SAF partially for lost revenue from the exemptions.

The Department of Treasury would experience additional administrative costs to report annually on the utilization of districts and to produce an annual cost and benefit economic analysis of three qualified local units. These responsibilities could require additional staff and resources and, accordingly, additional appropriations. The State Tax Commission would experience additional administrative costs to process applications within 60 days, which could require staff and resources in greater amounts than those currently appropriated.

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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.