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Senate Bill 97 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Joseph Bellino, Jr.
Committee: Finance, Insurance, and Consumer Protection (discharged)

Date Completed: 4-25-23

CONTENT

The bill would amend the Use Tax Act to exempt from taxation the sale of property, used for production, manufacturing, or recycling of aggregate by the property if the aggregate would be used as an ingredient or component part for construction, maintenance, repair, or reconstruction of real property in Michigan.

The bill is tie-barred to House Bill 4055, which would amend the Use Tax Act to the same effect as Senate Bill 97, except that House Bill 4055 would not hold harmless the State School Aid Fund.

The Act generally exempt from taxation property sold or used for industrial processing purposes. The bill would exempt from taxation under those Act the sale of tangible property or property, as applicable, used for production, manufacturing, or recycling of aggregate by the property, and for the purpose, described below, if that aggregate were subject to the use tax. "Aggregate" would mean common variety building material like sand, gravel, crushed stone, slag, recycled concrete, recycled asphalt, and geosynthetic aggregates.

The Act lists property that is eligible for an industrial processing exemption, including property that becomes an ingredient or component part of the finished product to be sold ultimately at retail. Instead, the bill would refer to property that became an ingredient or component part of the finished product to be sold ultimately at retail *or affixed to and made a structural part of real estate located in another state.*

Also, the bill specifies that property would be eligible for an industrial processing exemption under either Act if it performed an industrial processing activity upon an aggregate product or material that would be used as an ingredient or component part for the construction, maintenance, repair, or reconstruction of real property in Michigan if that aggregate product or material were subject to the use tax.

Notwithstanding anything to the contrary in either Act, the following would apply only to industrial processing activities and property described above:

- Within 90 days after the bill's effective date, the Department of Treasury would have to cancel all outstanding balances related to those industrial processing activities and property on notices of intent to assess for the use tax and that were issued before the bill's effective date.
- Within 90 days after the bill's effective date, the Department would have to cancel all outstanding balances related to those industrial processing activities and property on final assessments that were issued for the use tax and that were issued before the bill's effective date.
- After the bill's effective date, the Department could not issue any new assessments for the use tax on those industrial processing activities and property for any tax period before the bill's effective date that are open under the Act's statutes of limitations.

The bill would specify that all revenue lost to the State School Aid Fund as a result of the above exemptions for industrial processing activities and property, or as determined by the Department of Treasury, would have to be deposited into the State School Aid Fund from the General Fund.

MCL 205.94o

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

Based on estimates from the Michigan Department of Treasury, the combined impact of Senate Bill 97 (S-2) and Senate Bill 98, which would amend the General Sales Tax Act to exempt the property described above from the State sales tax, would reduce State General Fund revenue and local unit revenue by approximately \$1.0 million per year. The revenue loss during the first year of the bills could be greater because of the bills' provisions requiring that outstanding assessments be canceled.

Normally, approximately 73% of sales tax revenue is constitutionally earmarked to the School Aid Fund, 10% is constitutionally earmarked to local revenue sharing, and the remainder is deposited into the General Fund. Of the State's share of use tax revenue (after the local use tax enacted as personal property tax reform), revenue at a rate of 2% is constitutionally directed to the School Aid Fund, while the General Fund receives any remaining State use tax revenue. However, the bill would require the General Fund to compensate the School Aid Fund for any revenue loss resulting from the bill. As a result, the bills' impact on the General Fund and local unit revenue would depend on the relative impact of the exemption between the sales tax and the use tax.

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.