



Bethany Boyd

Final Analysis
Legislative Service Commission

Sub. H.B. 27

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(As Passed by the General Assembly)

Reps. Grendell, Metelsky, Britton, Hartnett, Peterson, Hollister, Jolivette, Haines, Beatty, Olman, DePiero, Schuler, Barrett, Pringle, Buchy, Roberts, Barnes

Sens. Blessing, Gardner, Watts, Carnes, Schafrath, Spada, Prentiss

Effective date: September 24, 1999

ACT SUMMARY

- Specifies that certain business facilities used to generate electricity are eligible for tax abatements under the enterprise zone program.
- Prohibits sales of forfeited lands to delinquent real property taxpayers.
- Temporarily authorizes the Tax Commissioner to abate the collection of past-due taxes that have been charged against otherwise exempt property because a tax exemption application was not filed.

CONTENT AND OPERATION

Enterprise zone program

Facilities eligible for tax abatements

(sec. 5709.61)

Under law not changed by the act, municipal corporations and boards of county commissioners may enter into agreements with an enterprise to provide certain real and personal property tax abatements for the enterprise's place of business, or "facility," located in a certified enterprise zone. Generally, only enterprises that are qualified by financial responsibility and business experience, and that agree to create or preserve jobs within the zone, may apply for the tax abatements.

A "facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business. The act specifies that a "facility" also includes land, buildings, etc., used in business to generate electricity that is designed and intended to operate during peak load periods and to generate electricity during no more than 4,350 hours in a calendar year. The act provides that, for purposes of the enterprise zone program, the value of the property at such a facility must be reduced by the value, if any, that is not apportioned under public utility tangible personal property law to the taxing district in which the facility is physically located. That law requires that 70% of an electric company's production and station equipment be apportioned to the taxing district in which the property is physically located, with the remaining 30% apportioned to each taxing district in the per cent that the cost of all transmission and distribution property physically located in the district is of the total cost of such property physically located in Ohio.

If such a facility is physically located in two adjacent taxing districts, the act specifies that the property located in each taxing district constitutes a separate facility (thus requiring a separate enterprise zone agreement for that part of the facility).

Information in an enterprise zone agreement and other filing requirements

(secs. 5709.62, 5709.63, and 5709.631)

Under continuing law, an enterprise must file with each personal property tax return an informational return setting forth separately the property, and related costs and values, exempted from taxation under the enterprise zone agreement. Under the act, an enterprise must file the same informational return with any annual report of public utility personal property it is required to file.

Enterprise zone agreements must contain certain information and statements. One such statement is a certification that the enterprise does not owe any delinquent real or tangible personal property taxes or delinquent corporation franchise, motor fuel, sales and use, cigarette, or income taxes. The act adds to this list public utility excise taxes.

An enterprise zone agreement also must contain a statement that the enterprise agrees to provide certain information, including property tax returns, so that its compliance with the agreement can be evaluated. The act provides that the enterprise also must provide annual reports of its tangible personal property that were filed under the public utility property tax law, if requested to do so by the proper tax incentive review council.

Purchase of forfeited lands

(sec. 5723.06)

Land that, pursuant to foreclosure proceedings, has been advertised and offered for sale on two occasions, but has not been sold for want of bidders, is forfeited to the state. Forfeited lands are then sold by the county auditor at public auction to the highest bidder, or if no bid is received, for the best price obtainable.

The act provides that forfeited lands cannot be sold to any person that is delinquent on real property taxes in Ohio.

Tax exemption for qualifying property

Ongoing law

Certain classes of property are entitled to exemption from taxation on the basis of how the property is used. The classes include the following:

- Churches and certain church-related property, including books and furniture in a church, the land where the church stands, and real property owned and operated by a church that is used primarily for church retreats or church camping (sec. 5709.07).
- Public schools and colleges that are not operated for profit, including real and personal property owned by a school board (secs. 3313.44 and 5709.07).
- Government-owned and publicly owned real and personal property that is used for a public or charitable purpose (secs. 5709.08, 5709.10, and 5709.121).
- Property used exclusively for charitable purposes, including the property of private corporations operated for the advancement of science (secs. 5709.12 and 5709.121).
- Cemeteries that are not operated for a profit (sec. 5709.14).

To obtain a tax exemption, property owners must file an application with the Tax Commissioner, but the Commissioner is prohibited from considering an exemption application if there are outstanding or unresolved tax or assessment charges against the property. Upon the owner's request, the Commissioner is authorized to abate ("remit") up to three years' worth of outstanding taxes, but any

taxes that are not abated must be paid before the property may be considered for exemption. (Secs. 5713.08 and 5713.081.)

The act

(Section 3)

The act provides a temporary procedure whereby "qualified property," which are the classes of property described above, may be exempted from taxation, and all past-due taxes, penalties, and interest may be abated, even if more than three years' worth of past-due taxes have accrued because an exemption application was not filed.

To qualify for the special abatement and exemption, owners of qualified property are required to apply to the Tax Commissioner within six months of the act's effective date. The application must include the name of the county in which the property is located; a legal description of the property; its taxable value; the amount of outstanding taxes, penalties, and interest; the date of acquisition of title to the property; the use of the property during the time taxes accrued; and any other information required by the Tax Commissioner. Upon the request of the owner, any of this information must be supplied by the county auditor. Property owners also must obtain and include with this application for abatement a certificate from the county treasurer indicating that all special assessments have been paid in full, and that any taxes, penalties, and interest that were charged before the property was used for the exempt purpose have been paid in full.

If the Tax Commissioner determines that the applicant qualifies for exemption and abatement under the terms of the act, the Commissioner must issue an order directing that the property be placed on the list of exempt property and that unpaid taxes, penalties, and interest be abated for every year the property qualified for exemption.

If, however, the Tax Commissioner determines that the property currently is being used for a purpose that would foreclose its right to exemption, the Commissioner must deny the application. If the Commissioner finds that the property is not entitled to exemption and abatement for any of the years for which exemption and abatement is sought, the Commissioner is required to order the county treasurer to collect all of the taxes, penalties, and interest due on the property for those years.

The act permits the Tax Commissioner to apply the act's provisions (1) to any qualified property that is the subject of an application for exemption pending on the effective date of the act, without requiring the property owner to file an

additional application, and (2) to such property that is the subject of an application for exemption filed on or after the act's effective date, but within six months of the effective date, even if the application does not specifically request abatement of unpaid taxes.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-99	p. 89
Reported, H. Ways & Means	02-23-99	p. 224
Passed House (97-0)	04-21-99	pp. 446-447
Reported, S. Ways & Means	06-08-99	p. 535
Passed Senate (32-0)	06-08-99	pp. 537-58
House concurred in Senate amendments (63-32)	06-10-99	pp. 810, 822-823

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