

BILL: Sub. H.B. 27

DATE: June 10, 1999

STATUS: As Enacted - Effective September 24, 1999

SPONSOR: Rep. Grendell

LOCAL IMPACT STATEMENT REQUIRED: Yes

CONTENTS: The bill extends the enterprise zone law to facilities used to generate electricity for peak load periods and allows for the abatement of unpaid real and tangible taxes, penalties, and interest on qualifying exempt property for a limited time. The bill would also prohibit a property owner from purchasing sales of forfeited land if their property taxes are delinquent.

State Fiscal Highlights

STATE FUND	FY 2000	FY 2001	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential Minimal Decrease	Potential Minimal Decrease	Potential Increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- Qualifying exempt properties that currently have taxes levied have the opportunity to remove their debt and file for an exemption. Exempted properties would reduce the total taxable value in school districts, which, in turn, would increase state expenditures in state basic aid to education. Along this same reasoning, there will be a decrease in the 10% rollback program as exempted properties do not claim this property tax reduction. General Revenue Fund Expenditures may have a potential minimum decrease.
- Allowing peak production facilities to qualify for tax abatements under the enterprise zone law may result in a potential General Revenue Fund expenditure increase from exempted properties reducing the taxable value in school districts, which, in turn, would increase state expenditures in state basic aid to education.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
School Districts			
Revenues	- 0 -	Potential Loss	Potential Revenue Gain in some Districts and Potential Revenue Loss in some Districts.
Expenditures	- 0 -	- 0 -	- 0 -
Counties and Other Local Governments			
Revenues	- 0 -	Potential Loss	Potential Revenue Gain in some Jurisdictions and Potential Revenue Loss in some Jurisdictions.
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.



- Contingent on the properties that are granted an exemption, school districts and other local governments may lose property tax revenue. School districts will potentially have a decrease in district valuation, which will then increase their state basic aid. There is a potential loss of revenue to school districts and other local taxing jurisdictions.
- Approximately 15% of the delinquent properties are church properties.

Detailed Fiscal Analysis

The bill provides real or tangible property tax abatement opportunities to qualifying property and prohibits a property owner from purchasing sales of forfeited land if their property taxes are delinquent. The analysis of the bill's fiscal impact will be done in two parts, Peak Load Facilities and Qualifying Exempt Properties, which is presented below.

Peak Load Facilities

The enterprise zone law allows firms that enter into enterprise zone agreements with municipal corporations or counties to receive a tax abatement of up to 75 percent of the value of the real or tangible property first used in business at a site (60 percent for sites located in unincorporated areas) for up to 10 years. The abatement could actually be more with the approval of the school district that would be affected by the enterprise zone agreement.

Such a provision would greatly reduce the cost of operating new peak-load generating facilities in the state and would provide incentives to build such facilities in the state. Currently, electric generation facilities are assessed at 100 percent of true value. (True value is equal to 50 percent of book cost.) Seventy percent of the value of such facilities is situated (i.e., allocated to the district where the plant is located) while 30 percent is apportioned throughout the state in accordance with the location of the company's transmission and distribution facilities. The abatement would only be available for the part of the generation facility that was situated.

The current higher assessment rate on electric property results in a higher tax rate than that applied to regular business property in the state and provides a strong disincentive to build new generation facilities in the state. At the same time, summer electric reserve margins have been dwindling in the past few years increasing the cost of electricity at peak times (e.g., hot summer days). This provides an incentive for certain firms to increase investment in electric peaking facilities. (Such facilities would not necessarily have to be built in the state but proximity is one consideration in satisfying peak demands.)

Several power providers have already been exploring the possibilities of constructing peaking units within the state (e.g., Duke Energy in the southwest and FirstEnergy in the northeast). Presumably either of them could take advantage of the new provision. It is not clear whether either would invest in the state in the absence of this or any similar tax incentive.

Numerous combined-cycle natural gas powered electric generating facilities have been constructed around the country in the past few years – typically in states that have already deregulated electric power supply. (In Illinois alone 14 new peaking units either have been built or are in the process of being built since their deregulation bill was enacted in 1997 even though competition does not actually begin in Illinois until October of this year). In August of 1998 Virginia Power asked the state of Virginia for permission to build and operate 5 units to generate electricity (150 megawatts each). The total cost of the facility is projected to be \$230 million. In October 1998, Duke Energy announced that it was

building a 520-megawatt plant in Maine at a cost of \$221 million. The plant is similar to one that the company recently completed in Maryland and is expected to come on line in the summer of 2000.

Assuming that a similar plant – costing \$220 million – were to be constructed in Ohio, under current law the true value of the facility would be approximately \$110 million. The assessed value would also equal \$110 million. Beginning in 2001 or 2002, the plant would generate \$6.9 million per year in property tax revenues, including \$4.6 million to local school districts (assuming current average property tax rates). Seventy percent of this amount would be received by the taxing districts where the plant was located – \$3.2 million to school districts; \$1.6 million to other taxing districts – and thirty percent – a total of \$2.1 million – would be apportioned among numerous other districts.). Table 1 walks through the example.

Table 1 - Analysis of EZ Tax Exemption for New Ohio Electric Plant				
<i>(in millions)</i>				
	No	With 75%	Loss if	Gain if
	Exemptio	Exemption	Investment Would	Investment Would
	n		Have Happened	Not Have Happened
			Anyway	Anyway
Estimated Value	\$220.0	\$220.0		
True Value	\$110.0	\$110.0		
Assessed Value	\$110.0	\$52.25		
Sitused Assessed Value	\$77.0	\$19.25	(\$57.75)	\$19.25
Non-Sitused Assessed Value	\$33.0	\$33.0		\$33.0
Statewide Average Gross Millage	63.00	63.00		
<u>Property Taxes</u>				
Total	\$6.9	\$3.3	(\$3.6)	\$3.3
School Districts	\$4.6	\$2.2	(\$2.4)	\$2.2
Other Taxing Districts	\$2.3	\$1.1	(\$1.2)	\$1.1
<u>Sitused Property Taxes</u>				
Total	\$4.9	\$1.2	(\$3.6)	\$1.2
School Districts	\$3.4	\$0.8	(\$2.5)	\$0.8
Other Taxing Districts	\$1.5	\$0.4	(\$1.1)	\$0.4
<u>Non-Sitused Property Taxes</u>				
Total	\$2.1	\$2.1	\$0.0	\$2.1
School Districts	\$1.5	\$1.5	\$0.0	\$1.5
Other Taxing Districts	\$0.6	\$0.6	\$0.0	\$0.6

Under the bill's provision the sitused portion could receive a tax abatement of up to 75 percent for up to 10 years. The sitused portion represents approximately \$77 million of taxable value. 75 percent of that would be \$57.8 million (see Table 1). The abated taxes on this value would be \$3.6 million (\$2.4 million to schools and \$1.2 million to other taxing districts). This could be seen as an annual loss to these units of \$2.4 million to schools and \$1.2 million to other taxing districts. Alternatively, it could be viewed as an annual gain of \$800,000 to schools and \$400,000 to other districts if the generating units were not going to be built without the tax incentive. (At the same time, the taxing

districts receiving the apportioned value would receive the same tax revenue with or without the abatement, providing the plant is built.) As indicated above, LBO believes that some units are likely to be built without this tax incentive, and some units will not be built without it. In any case, since these are new facilities, the tax incentives will not result in a loss of revenue vis-à-vis current revenue – just more or less additional revenue.

The potential impact of this provision is further complicated by the possible enactment of Sub. S.B. 3, which revises the taxes on electric companies and rural electric companies. In its current form S.B. 3 contains several provisions that could alter the impact of this bill:

1. It changes the definition of true value from 50 percent of book cost to depreciated book value for new generation facilities;
2. It decreases the assessment rate on generation facilities from 100 percent to 25 percent; and
3. It situs all generation facilities.

To continue the previous example, assume the following: A firm invests in a new generation facility costing \$220 million. The firm receives a 75 percent tax abatement for a period of 10 years pursuant to an enterprise zone agreement. Also, the facility is first put into operation more than 90 days after the enactment of S.B. 3. And the facility is to be depreciated over a 15-year period using a straightline method with a residual value of 10 percent or \$22 million. The revenue generated by the facility would be greatly reduced even in comparison to the above example. In the first year the facility would pay \$800,000 in property taxes of which \$500,000 would go to schools. This compares to the \$6.9 million it would pay under current law (\$4.6 million to school districts). Under current law with a 75 percent tax abatement (on sited value only) it would pay \$3.3 million per year (\$2.2 million to schools).

Table 2 - Part A shows the assumed taxable value of the facility for its 15 years of life according to each of 4 scenarios (i.e., current law, current law with 75 percent tax abatement, S.B. 3, and S.B. 3 with 75 percent tax abatement). Table 2 -Part B shows the estimated revenue to all taxing districts (including school districts) for the 15 years (holding overall average tax rates constant at 63 mills). Table 2 - Part C shows the revenue to school districts – holding millage rates constant at 42 mills.

Table 2				
Part A - Taxable value from one new Generation Facility under alternative scenarios				
(estimated cost of \$220 million)				
cost in millions of dollars				
Year	Current law	Current law with 75 % abatement	S.B. 3 – current provisions	S.B. 3 with 75 % tax abatement
1	\$110	\$52.25	\$51.7	\$12.9
2	\$110	\$52.25	\$48.4	\$12.1
3	\$110	\$52.25	\$45.1	\$11.3
4	\$110	\$52.25	\$41.8	\$10.5

Table 2				
Part A - Taxable value from one new Generation Facility under alternative scenarios				
(estimated cost of \$220 million)				
cost in millions of dollars				
5	\$110	\$52.25	\$38.5	\$9.6
6	\$110	\$52.25	\$35.2	\$8.8
7	\$110	\$52.25	\$31.9	\$8.0
8	\$110	\$52.25	\$28.6	\$7.2
9	\$110	\$52.25	\$25.3	\$6.3
10	\$110	\$52.25	\$22.0	\$5.5
11	\$110	\$110	\$18.7	\$18.7
12	\$110	\$110	\$15.4	\$15.4
13	\$110	\$110	\$12.1	\$12.1
14	\$110	\$110	\$8.8	\$8.8
15	\$110	\$110	\$5.5	\$5.5

Note: Abatement ends after year 10; Property is fully depreciated by year 15

Note: If more than one facility locates in Ohio, these figures would be multiple times bigger

Table 2				
Part B - Revenue to Local Government from one new Generation facility				
(estimated cost of \$220 million)				
Revenue in millions of dollars				
Year	Current law	Current law with 75 % abatement	S.B. 3 – current provisions	S.B. 3 with 75 % tax abatement
1	\$6.9	\$3.3	\$3.3	\$0.8
2	\$6.9	\$3.3	\$3.0	\$0.8
3	\$6.9	\$3.3	\$2.8	\$0.7
4	\$6.9	\$3.3	\$2.6	\$0.7
5	\$6.9	\$3.3	\$2.4	\$0.6
6	\$6.9	\$3.3	\$2.2	\$0.6
7	\$6.9	\$3.3	\$2.0	\$0.5
8	\$6.9	\$3.3	\$1.8	\$0.5
9	\$6.9	\$3.3	\$1.6	\$0.4
10	\$6.9	\$3.3	\$1.4	\$0.3
11	\$6.9	\$6.9	\$1.2	\$1.2
12	\$6.9	\$6.9	\$1.0	\$1.0

Table 2 Part B - Revenue to Local Government from one new Generation facility (estimated cost of \$220 million) Revenue in millions of dollars				
Year	Current law	Current law with 75 % abatement	S.B. 3 – current provisions	S.B. 3 with 75 % tax abatement
13	\$6.9	\$6.9	\$0.8	\$0.8
14	\$6.9	\$6.9	\$0.6	\$0.6
15	\$6.9	\$6.9	\$0.3	\$0.3

Note: If more than one facility locates in Ohio, these figures would be multiple times bigger

Table 2
Part C - Revenue to School Districts from one new Generation facility
(estimated cost of \$220 million)
Revenue in millions of dollars

Year	Current law	Current law with 75 % abatement	S.B. 3 – current provisions	S.B. 3 with 75 % tax abatement
1	\$4.6	\$2.2	\$2.2	\$0.5
2	\$4.6	\$2.2	\$2.0	\$0.5
3	\$4.6	\$2.2	\$1.9	\$0.5
4	\$4.6	\$2.2	\$1.8	\$0.4
5	\$4.6	\$2.2	\$1.6	\$0.4
6	\$4.6	\$2.2	\$1.5	\$0.4
7	\$4.6	\$2.2	\$1.3	\$0.3
8	\$4.6	\$2.2	\$1.2	\$0.3
9	\$4.6	\$2.2	\$1.1	\$0.3
10	\$4.6	\$2.2	\$0.9	\$0.2
11	\$4.6	\$4.6	\$0.8	\$0.8
12	\$4.6	\$4.6	\$0.6	\$0.6
13	\$4.6	\$4.6	\$0.5	\$0.5
14	\$4.6	\$4.6	\$0.4	\$0.4
15	\$4.6	\$4.6	\$0.2	\$0.2

Note: If more than one facility locates in Ohio, these figures would be multiple times bigger

Qualifying Properties Abatement Opportunity

Ohio law allows for certain qualifying properties to be exempt from property taxation. Such properties are:

- Churches and certain church related property
- Public schools and colleges that are not operated for profit
- Government and publicly owned property that is used for public purpose
- Property used exclusively for charitable purposes
- Cemeteries that are not operated for profit

The process of exempting a property requires the property owner to file an application with the Tax Commissioner. If there is no outstanding or unresolved tax or assessment charges levied against the property, then the Tax Commissioner may place the parcel on the tax exempt property list and notify the relevant county auditor. If the property contains an outstanding debt, then the property owner may request up to three year’s worth of outstanding taxes to be abated, otherwise, the Tax Commissioner is

prohibited from considering the exemption application. Any taxes not abated must be paid before a property is considered for exemption.

It is possible that a qualifying exempt property does not file an exemption application and then realizes this when their property tax bill arrives. In order to file for exemption, they must first petition the Tax Commissioner for an abatement of current property tax debt. If the property has more than three years of back taxes due, an exemption will not be granted until the bill is paid. Am. H.B. 27 provides a temporary procedure whereby qualifying property 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 has accrued because an exemption application was not filed.

To estimate the statewide total of qualified exempt real property, LBO was able to obtain a delinquent property tax list from the Franklin County Auditor's office and narrowed down the 1,800 (front and back) pages of delinquent properties to potential exempt properties. The reduced list is not exact since only properties that seemed to fit exemption qualifications were pulled, some potentially exempt properties may have missed and non-exempt properties may have been included. There are approximately 350 properties in Franklin County that may qualify for exemption, with a total tax bill of \$3.8 million dollars, inclusive of tax year 1999 (excluding penalties). It is not known how many of these parcels are currently in the process of having their tax bill abated. Approximately 15% of all delinquent parcels were churches and the remaining 85% of the parcels were properties owned by the state of Ohio and local governments.

Estimating the statewide cost is based on this one sample value. Assuming Franklin county real property taxes charged are proportional to state total real property taxes charged, then the estimated state total tax bill for exempt real property is \$31 million. Since the bill also exempts certain qualifying tangible properties, the fiscal effect of the bill will be greater than \$31 million. Data on tangible properties that qualify for an exemption but did not have an exemption filed was not obtainable. Nonetheless, not being able to determine which properties qualify for exemption status and which properties do not, the statewide cost of \$31 million is considered a "worst" case scenario.¹

There are several local and state impacts of the worst case scenario. At the local level, there is the potential for a revenue loss. Property tax revenues are split approximately seventy percent to school districts and thirty percent to other local governments. In the worst case scenario, this implies a FY 2000 loss of \$21.7 million to the state's school districts and \$9.3 million to state's other local governments. School districts will lose total property valuation from the currently delinquent properties being removed from the tax list, which will then increase their state basic aid (valuation per pupil goes down). The increase in state basic aid may or may not offset the revenue loss. The state will have increased cost expenditures from the increase in basic aid to education but they will also have a decrease in cost expenditures from a reduction in the 10-percent rollback program.

¹ The Department of Taxation stated that about 150 cases, statewide, are heard each year for the abatement of unpaid taxes of exempt properties and Franklin County alone has the potential for 350 cases. This suggests either (1) not all the properties in Franklin County will qualify for abatement of unpaid taxes, or (2) there exists a large number of properties that have not formally applied for abatement, possibly due to accumulated tax bills.

It is important to note that no money will be refunded. Exempt properties will be given the opportunity to have their current debt erased in order to file an application for exemption. Am. H.B. 27 would eliminate the need for such properties to file for abatement and then re-filing for exemption status.

Summary

The fiscal analysis of extending the enterprise zone law to facilities used to generate electricity for peak-periods employs an example of one such facility locating in Ohio. LBO believes these facilities will be built in Ohio without this tax incentive, which will not result in a loss of current revenue, but more or less additional revenue for the taxing districts. The enactment of S.B. 3 would further constrict the revenue impact.

Allowing qualifying exempt properties a window of opportunity to file for exemption will technically result in lost revenue for school districts and local governments. But it is important to note that total property taxes levied in calendar year 1997 was \$6.8 billion and \$31 million is less than one percent of this revenue, but, at the same time, the lost revenue affects both school districts and local governments. Removal of properties from the tax list due to exemption will have an impact, albeit large or small.

Lastly, a property owner with delinquent property taxes would be prohibited from purchasing forfeited property, such as property sold a forfeited land sales auction.

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