

SENATE BILL No. 867

November 1, 2007, Introduced by Senators BROWN, STAMAS, JANSEN, VAN WOERKOM, ALLEN, BIRKHOLZ and BARCIA and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1974 PA 198, entitled

"An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties,"

by amending sections 2 and 9 (MCL 207.552 and 207.559), section 2 as amended by 2007 PA 12 and section 9 as amended by 2006 PA 436.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) "Commission" means the state tax commission
2 created by 1927 PA 360, MCL 209.101 to 209.107.

3 (2) "Facility" means either a replacement facility, a new
4 facility, or, if applicable by its usage, a speculative building.

1 (3) "Replacement facility" means 1 of the following:

2 (a) In the case of a replacement or restoration that occurs on
3 the same or contiguous land as that which is replaced or restored,
4 industrial property that is or is to be acquired, constructed,
5 altered, or installed for the purpose of replacement or restoration
6 of obsolete industrial property together with any part of the old
7 altered property that remains for use as industrial property after
8 the replacement, restoration, or alteration.

9 (b) In the case of construction on vacant noncontiguous land,
10 property that is or will be used as industrial property that is or
11 is to be acquired, constructed, transferred, or installed for the
12 purpose of being substituted for obsolete industrial property if
13 the obsolete industrial property is situated in a plant
14 rehabilitation district in the same city, village, or township as
15 the land on which the facility is or is to be constructed and
16 includes the obsolete industrial property itself until the time as
17 the substituted facility is completed.

18 (4) "New facility" means new industrial property other than a
19 replacement facility to be built in a plant rehabilitation district
20 or industrial development district.

21 (5) "Local governmental unit" means a city, village, or
22 township located in this state.

23 (6) "Industrial property" means land improvements, buildings,
24 structures, and other real property, and machinery, equipment,
25 furniture, and fixtures or any part or accessory whether completed
26 or in the process of construction comprising an integrated whole,
27 the primary purpose and use of which is the engaging in a high-

1 technology activity, operation of a strategic response center,
2 operation of a motorsports entertainment complex, operation of a
3 logistical optimization center, operation of qualified commercial
4 activity, the manufacture of goods or materials, creation or
5 synthesis of biodiesel fuel, or the processing of goods and
6 materials by physical or chemical change; property acquired,
7 constructed, altered, or installed due to the passage of proposal A
8 in 1976; the operation of a hydro-electric dam by a private company
9 other than a public utility; or agricultural processing facilities.
10 Industrial property includes facilities related to a manufacturing
11 operation under the same ownership, including, but not limited to,
12 office, engineering, research and development, warehousing, or
13 parts distribution facilities. Industrial property also includes
14 research and development laboratories of companies other than those
15 companies that manufacture the products developed from their
16 research activities and research development laboratories of a
17 manufacturing company that are unrelated to the products of the
18 company. For applications approved by the legislative body of a
19 local governmental unit between June 30, 1999 and December 31, ~~2007~~
20 **2012**, industrial property also includes an electric generating
21 plant that is not owned by a local unit of government, including,
22 but not limited to, an electric generating plant fueled by biomass.
23 Industrial property also includes convention and trade centers over
24 250,000 square feet in size. Industrial property also includes a
25 federal reserve bank operating under 12 USC 341, located in a city
26 with a population of 750,000 or more. Industrial property may be
27 owned or leased. However, in the case of leased property, the

1 lessee is liable for payment of ad valorem property taxes and shall
2 furnish proof of that liability. Industrial property does not
3 include any of the following:

4 (a) Land.

5 (b) Property of a public utility other than an electric
6 generating plant that is not owned by a local unit of government
7 and for which an application was approved by the legislative body
8 of a local governmental unit between June 30, 1999 and December 31,
9 ~~2007~~—2012.

10 (c) Inventory.

11 (7) "Obsolete industrial property" means industrial property
12 the condition of which is substantially less than an economically
13 efficient functional condition.

14 (8) "Economically efficient functional condition" means a
15 state or condition of property the desirability and usefulness of
16 which is not impaired due to changes in design, construction,
17 technology, or improved production processes, or from external
18 influencing factors which make the property less desirable and
19 valuable for continued use.

20 (9) "Research and development laboratories" means building and
21 structures, including the machinery, equipment, furniture, and
22 fixtures located in the building or structure, used or to be used
23 for research or experimental purposes that would be considered
24 qualified research as that term is used in section 41 of the
25 internal revenue code, 26 USC 41, except that qualified research
26 also includes qualified research funded by grant, contract, or
27 otherwise by another person or governmental entity.

1 (10) "Manufacture of goods or materials" or "processing of
2 goods or materials" means any type of operation that would be
3 conducted by an entity included in the classifications provided by
4 sector 31-33 – manufacturing, of the North American industry
5 classification system, United States, 1997, published by the office
6 of management and budget, regardless of whether the entity
7 conducting that operation is included in that manual.

8 (11) "High-technology activity" means that term as defined in
9 section 3 of the Michigan economic growth authority act, 1995 PA
10 24, MCL 207.803.

11 (12) "Logistical optimization center" means a sorting and
12 distribution center that supports a private passenger motor vehicle
13 assembly center and its manufacturing process for the purpose of
14 optimizing transportation, just-in-time inventory management, and
15 material handling, and to which all of the following apply:

16 (a) The sorting and distribution center is within 2 miles of a
17 private passenger motor vehicle assembly center that, together with
18 supporting facilities, contains at least 800,000 square feet.

19 (b) The sorting and distribution center contains at least
20 950,000 square feet.

21 (c) The sorting and distribution center has applied for an
22 industrial facilities exemption certificate after June 30, 2005 and
23 before January 1, 2006.

24 (d) The private passenger motor vehicle assembly center is
25 located on land conditionally transferred by a township with a
26 population of more than 25,000 under 1984 PA 425, MCL 124.21 to
27 124.30, to a city with a population of more than 100,000 that

1 levies an income tax under the city income tax act, 1964 PA 284,
2 MCL 141.501 to 141.787.

3 (13) "Commercial property" means that term as defined in
4 section 2 of the obsolete property rehabilitation act, 2000 PA 146,
5 MCL 125.2782.

6 (14) "Qualified commercial activity" means commercial property
7 that meets all of the following:

8 (a) An application for an exemption certificate approved by
9 the local governmental unit is filed for approval by the state tax
10 commission not later than April 30, 2006.

11 (b) At least 90% of the property, excluding the surrounding
12 green space, is used for warehousing, distribution, and logistics
13 purposes that provide food for institutional, restaurant, hospital,
14 or hotel customers.

15 (c) Is located within a village and is within 15 miles of a
16 Michigan state border.

17 (d) Occupies 1 or more buildings or structures that together
18 are greater than 300,000 square feet in size.

19 (15) "Motorsports entertainment complex" means a closed-course
20 motorsports facility, and its ancillary grounds and facilities,
21 that satisfies all of the following:

22 (a) Has at least 70,000 fixed seats for race patrons.

23 (b) Has at least 6 scheduled days of motorsports events each
24 calendar year, at least 2 of which shall be comparable to nascar
25 nextel cup events held in 2007 or their successor events.

26 (c) Serves food and beverages at the facility during
27 sanctioned events each calendar year through concession outlets, a

1 majority of which are staffed by individuals who represent or are
2 members of 1 or more nonprofit civic or charitable organizations
3 that directly financially benefit from the concession outlets'
4 sales.

5 (d) Engages in tourism promotion.

6 (e) Has permanent exhibitions of motorsports history, events,
7 or vehicles.

8 Sec. 9. (1) The legislative body of the local governmental
9 unit, in its resolution approving an application, shall set forth a
10 finding and determination that the granting of the industrial
11 facilities exemption certificate, considered together with the
12 aggregate amount of industrial facilities exemption certificates
13 previously granted and currently in force, shall not have the
14 effect of substantially impeding the operation of the local
15 governmental unit or impairing the financial soundness of a taxing
16 unit that levies an ad valorem property tax in the local
17 governmental unit in which the facility is located or to be
18 located. If the state equalized valuation of property proposed to
19 be exempt pursuant to an application under consideration,
20 considered together with the aggregate state equalized valuation of
21 property exempt under certificates previously granted and currently
22 in force, exceeds 5% of the state equalized valuation of the local
23 governmental unit, the commission, with the approval of the state
24 treasurer, shall make a separate finding and shall include a
25 statement in the order approving the industrial facilities
26 exemption certificate that exceeding that amount shall not have the
27 effect of substantially impeding the operation of the local

1 governmental unit or impairing the financial soundness of an
2 affected taxing unit.

3 (2) Except for an application for a speculative building,
4 which is governed by subsection (4), the legislative body of the
5 local governmental unit shall not approve an application and the
6 commission shall not grant an industrial facilities exemption
7 certificate unless the applicant complies with all of the following
8 requirements:

9 (a) The commencement of the restoration, replacement, or
10 construction of the facility occurred not earlier than 12 months
11 before the filing of the application for the industrial facilities
12 exemption certificate. If the application is not filed within the
13 12-month period, the application may be filed within the succeeding
14 12-month period and the industrial facilities exemption certificate
15 shall in this case expire 1 year earlier than it would have expired
16 if the application had been timely filed. This subdivision does not
17 apply for applications filed with the local governmental unit after
18 December 31, 1983.

19 (b) For applications made after December 31, 1983, the
20 proposed facility shall be located within a plant rehabilitation
21 district or industrial development district that was duly
22 established in a local governmental unit eligible under this act to
23 establish a district and that was established upon a request filed
24 or by the local governmental unit's own initiative taken before the
25 commencement of the restoration, replacement, or construction of
26 the facility.

27 (c) For applications made after December 31, 1983, the

1 commencement of the restoration, replacement, or construction of
2 the facility occurred not earlier than 6 months before the filing
3 of the application for the industrial facilities exemption
4 certificate.

5 (d) The application relates to a construction, restoration, or
6 replacement program that when completed constitutes a new or
7 replacement facility within the meaning of this act and that shall
8 be situated within a plant rehabilitation district or industrial
9 development district duly established in a local governmental unit
10 eligible under this act to establish the district.

11 (e) Completion of the facility is calculated to, and will at
12 the time of issuance of the certificate have the reasonable
13 likelihood to create employment, retain employment, prevent a loss
14 of employment, or produce energy in the community in which the
15 facility is situated.

16 (f) Completion of the facility does not constitute merely the
17 addition of machinery and equipment for the purpose of increasing
18 productive capacity but rather is primarily for the purpose and
19 will primarily have the effect of restoration, replacement, or
20 updating the technology of obsolete industrial property. An
21 increase in productive capacity, even though significant, is not an
22 impediment to the issuance of an industrial facilities exemption
23 certificate if other criteria in this section and act are met. This
24 subdivision does not apply to a new facility.

25 (g) The provisions of subdivision (c) do not apply to a new
26 facility located in an existing industrial development district
27 owned by a person who filed an application for an industrial

1 facilities exemption certificate in April of 1992 if the
2 application was approved by the local governing body and was denied
3 by the state tax commission in April of 1993.

4 (h) The provisions of subdivisions (b) and (c) and section
5 4(3) do not apply to 1 or more of the following:

6 (i) A facility located in an industrial development district
7 owned by a person who filed an application for an industrial
8 facilities exemption certificate in October 1995 for construction
9 that was commenced in July 1992 in a district that was established
10 by the legislative body of the local governmental unit in July
11 1994. An industrial facilities exemption certificate described in
12 this subparagraph shall expire as provided in section 16(3).

13 (ii) A facility located in an industrial development district
14 that was established in January 1994 and was owned by a person who
15 filed an application for an industrial facilities exemption
16 certificate in February 1994 if the personal property and real
17 property portions of the application were approved by the
18 legislative body of the local governmental unit and the personal
19 property portion of the application was approved by the state tax
20 commission in December 1994 and the real property portion of the
21 application was denied by the state tax commission in December
22 1994. An industrial facilities exemption certificate described in
23 this subparagraph shall expire as provided in section 16(3).

24 (iii) A facility located in an industrial development district
25 that was established in December 1995 and was owned by a person who
26 filed an application for an industrial facilities exemptions
27 certificate in November or December 1995 for construction that was

1 commenced in September 1995.

2 (iv) A facility located in an industrial development district
3 owned by a person who filed an application for an industrial
4 facilities exemption certificate in July 2001 for construction that
5 was commenced in February 2001 in a district that was established
6 by the legislative body of the local governmental unit in September
7 2001. An industrial facilities exemption certificate described in
8 this subparagraph shall expire as provided in section 16. The
9 facility described in this subparagraph shall be taxed under this
10 act as if it was granted an industrial facilities exemption
11 certificate in October 2001, and a corrected tax bill shall be
12 issued by the local tax collecting unit if the local tax collecting
13 unit has possession of the tax roll or by the county treasurer if
14 the county has possession of the tax roll. If granting the
15 industrial facilities exemption certificate under this subparagraph
16 results in an overpayment of the tax, a rebate, including any
17 interest and penalties paid, shall be made to the taxpayer by the
18 local tax collecting unit if the local tax collecting unit has
19 possession of the tax roll or by the county treasurer if the county
20 has possession of the tax roll within 30 days of the date the
21 exemption is granted. The rebate shall be without interest.

22 (v) A facility located in an industrial development district
23 owned by a person who filed an application for an industrial
24 facilities exemption certificate in December 2005 for construction
25 that was commenced in September 2005 in a district that was
26 established by the legislative body of the local governmental unit
27 in December 2005. An industrial facilities exemption certificate

1 described in this subparagraph shall expire as provided in section
2 16.

3 (vi) A FACILITY LOCATED IN AN INDUSTRIAL DEVELOPMENT DISTRICT
4 THAT WAS ESTABLISHED BY THE LEGISLATIVE BODY OF THE LOCAL
5 GOVERNMENTAL UNIT IN AUGUST 2007 AND WAS OWNED BY A PERSON WHO
6 FILED AN APPLICATION FOR AN INDUSTRIAL FACILITIES EXEMPTION
7 CERTIFICATE IN JUNE 2007 FOR EQUIPMENT THAT WAS PURCHASED IN
8 JANUARY 2007.

9 (i) The provisions of subdivision (c) do not apply to any of
10 the following:

11 (i) A new facility located in an existing industrial
12 development district owned by a person who filed an application for
13 an industrial facilities exemption certificate in October 1993 if
14 the application was approved by the legislative body of the local
15 governmental unit and the real property portion of the application
16 was denied by the state tax commission in December 1993.

17 (ii) A new facility located in an existing industrial
18 development district owned by a person who filed an application for
19 an industrial facilities exemption certificate in September 1993 if
20 the personal property portion of the application was approved by
21 the legislative body of the local governmental unit and the real
22 property portion of the application was denied by the legislative
23 body of the local governmental unit in October 1993 and
24 subsequently approved by the legislative body of the local
25 governmental unit in September 1994.

26 (iii) A facility located in an existing industrial development
27 district owned by a person who filed an application for an

1 industrial facilities exemption certificate in August 1993 if the
2 application was approved by the local governmental unit in
3 September 1993 and the application was denied by the state tax
4 commission in December 1993.

5 (iv) A facility located in an existing industrial development
6 district occupied by a person who filed an application for an
7 industrial facilities exemption certificate in June of 1995 if the
8 application was approved by the legislative body of the local
9 governmental unit in October of 1995 for construction that was
10 commenced in November or December of 1994.

11 (v) A facility located in an existing industrial development
12 district owned by a person who filed an application for an
13 industrial facilities exemption certificate in June of 1995 if the
14 application was approved by the legislative body of the local
15 governmental unit in July of 1995 and the personal property portion
16 of the application was approved by the state tax commission in
17 November of 1995.

18 (j) If the facility is locating in a plant rehabilitation
19 district or an industrial development district from another
20 location in this state, the owner of the facility is not delinquent
21 in any of the taxes described in section 10(1)(a) of the Michigan
22 renaissance zone act, 1996 PA 376, MCL 125.2690, or substantially
23 delinquent in any of the taxes described in and as provided under
24 section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376,
25 MCL 125.2690.

26 (3) If the replacement facility when completed will not be
27 located on the same premises or contiguous premises as the obsolete

1 industrial property, then the applicant shall make provision for
2 the obsolete industrial property by demolition, sale, or transfer
3 to another person with the effect that the obsolete industrial
4 property shall within a reasonable time again be subject to
5 assessment and taxation under the general property tax act, 1893 PA
6 206, MCL 211.1 to ~~211.157~~ 211.155, or be used in a manner
7 consistent with the general purposes of this act, subject to
8 approval of the commission.

9 (4) The legislative body of the local governmental unit shall
10 not approve an application and the commission shall not grant an
11 industrial facilities exemption certificate that applies to a
12 speculative building unless the speculative building is or is to be
13 located in a plant rehabilitation district or industrial
14 development district duly established by a local governmental unit
15 eligible under this act to establish a district; the speculative
16 building was constructed less than 9 years before the filing of the
17 application for the industrial facilities exemption certificate;
18 the speculative building has not been occupied since completion of
19 construction; and the speculative building otherwise qualifies
20 under subsection (2)(e) for an industrial facilities exemption
21 certificate. An industrial facilities exemption certificate granted
22 under this subsection shall expire as provided in section 16(3).

23 (5) Not later than September 1, 1989, the commission shall
24 provide to all local assessing units the name, address, and
25 telephone number of the person on the commission staff responsible
26 for providing procedural information concerning this act. After
27 October 1, 1989, a local unit of government shall notify each

1 prospective applicant of this information in writing.

2 (6) Notwithstanding any other provision of this act, if on
3 December 29, 1986 a local governmental unit passed a resolution
4 approving an exemption certificate for 10 years for real and
5 personal property but the commission did not receive the
6 application until 1992 and the application was not made complete
7 until 1995, then the commission shall issue, for that property, an
8 industrial facilities exemption certificate that begins December
9 30, 1987 and ends December 30, 1997. The facility described in this
10 subsection shall be taxed under this act as if it was granted an
11 industrial facilities exemption certificate on December 30, 1987.

12 (7) Notwithstanding any other provision of this act, if a
13 local governmental unit passed a resolution approving an industrial
14 facilities exemption certificate for a new facility on July 8, 1991
15 but rescinded that resolution and passed a resolution approving an
16 industrial facilities exemption certificate for that same facility
17 as a replacement facility on October 21, 1996, the commission shall
18 issue for that property an industrial facilities exemption
19 certificate that begins December 30, 1991 and ends December 2003.
20 The replacement facility described in this subsection shall be
21 taxed under this act as if it was granted an industrial facilities
22 exemption certificate on December 30, 1991.

23 (8) Property owned or operated by a casino is not industrial
24 property or otherwise eligible for an abatement or reduction of ad
25 valorem property taxes under this act. As used in this subsection,
26 "casino" means a casino or a parking lot, hotel, motel, convention
27 and trade center, or retail store owned or operated by a casino, an

1 affiliate, or an affiliated company, regulated by this state
2 pursuant to the Michigan gaming control and revenue act, ~~the~~
3 ~~Initiated Law of 1996 IL 1~~, MCL 432.201 to 432.226.

4 (9) Notwithstanding section 16a and any other provision of
5 this act, if a local governmental unit passed a resolution
6 approving an industrial facilities exemption certificate for a new
7 facility on October 28, 1996 for a certificate that expired in
8 December 2003 and the local governmental unit passes a resolution
9 approving the extension of the certificate after December 2003 and
10 before March 1, 2006, the commission shall issue for that property
11 an industrial facilities exemption certificate that begins on
12 December 30, 2005 and ends December 30, 2010 as long as the
13 property continues to qualify under this act.