

HOUSE BILL No. 5348

September 10, 2009, Introduced by Reps. Kandrevas, Polidori, Constan, Geiss, Walsh, Leland, Byrnes, Johnson, Jackson, LeBlanc, Bledsoe and Angerer and referred to the Committee on Transportation.

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 4 (MCL 207.552 and 207.554), section 2 as amended by 2008 PA 581 and section 4 as amended by 2004 PA 437.

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

1 facility, or, if applicable by its usage, a speculative building.

2 (3) "NEXT MICHIGAN DEVELOPMENT CORPORATION" MEANS THAT TERM AS
3 DEFINED IN SECTION 3 OF THE NEXT MICHIGAN DEVELOPMENT ACT.

4 (4) ~~(3)~~—"Replacement facility" means 1 of the following:

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

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

21 (5) ~~(4)~~—"New facility" means new industrial property other
22 than a replacement facility to be built in a plant rehabilitation
23 district or industrial development district.

24 (6) ~~(5)~~—"Local governmental unit" means a city, village, or
25 township, OR NEXT MICHIGAN DEVELOPMENT CORPORATION located in this
26 state. FOR PURPOSES OF THIS ACT, IF A NEXT MICHIGAN DEVELOPMENT
27 CORPORATION ESTABLISHES A PLANT REHABILITATION DISTRICT OR AN

1 INDUSTRIAL DEVELOPMENT DISTRICT, THE NEXT MICHIGAN DEVELOPMENT
2 CORPORATION SHALL ACT AS THE LOCAL GOVERNMENTAL UNIT IN
3 ESTABLISHING AND OPERATING THE PLANT REHABILITATION DISTRICT OR THE
4 INDUSTRIAL DEVELOPMENT DISTRICT.

5 (7) ~~(6)~~—"Industrial property" means land improvements,
6 buildings, structures, and other real property, and machinery,
7 equipment, furniture, and fixtures or any part or accessory whether
8 completed or in the process of construction comprising an
9 integrated whole, the primary purpose and use of which is the
10 engaging in a high-technology activity, operation of a strategic
11 response center, operation of a motorsports entertainment complex,
12 operation of a logistical optimization center, operation of
13 qualified commercial activity, operation of a major distribution
14 and logistics facility, the manufacture of goods or materials,
15 creation or synthesis of biodiesel fuel, or the processing of goods
16 and materials by physical or chemical change; property acquired,
17 constructed, altered, or installed due to the passage of proposal A
18 in 1976; the operation of a hydro-electric dam by a private company
19 other than a public utility; or agricultural processing facilities.
20 Industrial property includes facilities related to a manufacturing
21 operation under the same ownership, including, but not limited to,
22 office, engineering, research and development, warehousing, or
23 parts distribution facilities. Industrial property also includes
24 research and development laboratories of companies other than those
25 companies that manufacture the products developed from their
26 research activities and research development laboratories of a
27 manufacturing company that are unrelated to the products of the

1 company. For applications approved by the legislative body of a
2 local governmental unit between June 30, 1999 and December 31,
3 2007, industrial property also includes an electric generating
4 plant that is not owned by a local unit of government, including,
5 but not limited to, an electric generating plant fueled by biomass.
6 Industrial property also includes convention and trade centers in
7 which construction begins not later than December 31, 2010 and is
8 over 250,000 square feet in size or, if located in a county with a
9 population of more than 750,000 and less than 1,100,000, is over
10 100,000 square feet in size or, if located in a county with a
11 population of more than 26,000 and less than 28,000, is over 30,000
12 square feet in size. Industrial property also includes a federal
13 reserve bank operating under 12 USC 341, located in a city with a
14 population of 750,000 or more. Industrial property may be owned or
15 leased. However, in the case of leased property, the lessee is
16 liable for payment of ad valorem property taxes and shall furnish
17 proof of that liability. **FOR PURPOSES OF A LOCAL GOVERNMENTAL UNIT**
18 **THAT IS A NEXT MICHIGAN DEVELOPMENT CORPORATION, INDUSTRIAL**
19 **PROPERTY INCLUDES ONLY PROPERTY USED IN THE OPERATION OF AN**
20 **ELIGIBLE BUSINESS, AS THAT TERM IS DEFINED IN SECTION 3 OF THE**
21 **MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995 PA 24, MCL 207.803.**

22 Industrial property does not include any of the following:

23 (a) Land.

24 (b) Property of a public utility other than an electric
25 generating plant that is not owned by a local unit of government
26 and for which an application was approved by the legislative body
27 of a local governmental unit between June 30, 1999 and December 31,

1 2007.

2 (c) Inventory.

3 (8) ~~(7)~~—"Obsolete industrial property" means industrial
4 property the condition of which is substantially less than an
5 economically efficient functional condition.

6 (9) ~~(8)~~—"Economically efficient functional condition" means a
7 state or condition of property the desirability and usefulness of
8 which is not impaired due to changes in design, construction,
9 technology, or improved production processes, or from external
10 influencing factors that make the property less desirable and
11 valuable for continued use.

12 (10) ~~(9)~~—"Research and development laboratories" means
13 building and structures, including the machinery, equipment,
14 furniture, and fixtures located in the building or structure, used
15 or to be used for research or experimental purposes that would be
16 considered qualified research as that term is used in section 41 of
17 the internal revenue code, 26 USC 41, except that qualified
18 research also includes qualified research funded by grant,
19 contract, or otherwise by another person or governmental entity.

20 (11) ~~(10)~~—"Manufacture of goods or materials" or "processing
21 of goods or materials" means any type of operation that would be
22 conducted by an entity included in the classifications provided by
23 sector 31-33 – manufacturing, of the North American industry
24 classification system, United States, 1997, published by the office
25 of management and budget, regardless of whether the entity
26 conducting that operation is included in that manual.

27 (12) ~~(11)~~—"High-technology activity" means that term as

1 defined in section 3 of the Michigan economic growth authority act,
2 1995 PA 24, MCL 207.803.

3 (13) ~~(12)~~—"Logistical optimization center" means a sorting and
4 distribution center that supports a private passenger motor vehicle
5 assembly center and its manufacturing process for the purpose of
6 optimizing transportation, just-in-time inventory management, and
7 material handling, and to which all of the following apply:

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

11 (b) The sorting and distribution center contains at least
12 950,000 square feet.

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

16 (d) The private passenger motor vehicle assembly center is
17 located on land conditionally transferred by a township with a
18 population of more than 25,000 under 1984 PA 425, MCL 124.21 to
19 124.30, to a city with a population of more than 100,000 that
20 levies an income tax under the city income tax act, 1964 PA 284,
21 MCL 141.501 to 141.787.

22 (14) ~~(13)~~—"Commercial property" means that term as defined in
23 section 2 of the obsolete property rehabilitation act, 2000 PA 146,
24 MCL 125.2782.

25 (15) ~~(14)~~—"Qualified commercial activity" means commercial
26 property that meets all of the following:

27 (a) At least 90% of the property, excluding the surrounding

1 green space, is used for warehousing, distribution, or logistic
2 purposes and is located in a county that borders another state or
3 Canada or for a communications center.

4 (b) Occupies a building or structure that is greater than
5 100,000 square feet in size.

6 (16) ~~(15)~~—"Motorsports entertainment complex" means a closed-
7 course motorsports facility, and its ancillary grounds and
8 facilities, that satisfies all of the following:

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

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

13 (c) Serves food and beverages at the facility during
14 sanctioned events each calendar year through concession outlets, a
15 majority of which are staffed by individuals who represent or are
16 members of 1 or more nonprofit civic or charitable organizations
17 that directly financially benefit from the concession outlets'
18 sales.

19 (d) Engages in tourism promotion.

20 (e) Has permanent exhibitions of motorsports history, events,
21 or vehicles.

22 (17) ~~(16)~~—"Major distribution and logistics facility" means a
23 proposed distribution center that meets all of the following:

24 (a) Contains at least 250,000 square feet.

25 (b) Has or will have an assessed value of \$5,000,000.00 or
26 more for the real property.

27 (c) Is located within 35 miles of the border of this state.

1 (d) Has as its purpose the distribution of inventory and
2 materials to facilities owned by the taxpayer whose primary
3 business is the retail sale of sporting goods and related
4 inventory.

5 Sec. 4. (1) A local governmental unit, by resolution of its
6 legislative body, may establish plant rehabilitation districts and
7 industrial development districts that consist of 1 or more parcels
8 or tracts of land or a portion of a parcel or tract of land.

9 (2) The legislative body of a local governmental unit may
10 establish a plant rehabilitation district or an industrial
11 development district on its own initiative or upon a written
12 request filed by the owner or owners of 75% of the state equalized
13 value of the industrial property located within a proposed plant
14 rehabilitation district or industrial development district. This
15 request shall be filed with the clerk of the local governmental
16 unit.

17 (3) Except as provided in section 9(2)(h), after December 31,
18 1983, a request for the establishment of a proposed plant
19 rehabilitation district or industrial development district shall be
20 filed only in connection with a proposed replacement facility or
21 new facility, the construction, acquisition, alteration, or
22 installation of or for which has not commenced at the time of the
23 filing of the request. The legislative body of a local governmental
24 unit shall not establish a plant rehabilitation district or an
25 industrial development district pursuant to subsection (2) if it
26 finds that the request for the district was filed after the
27 commencement of construction, alteration, or installation of, or of

1 an acquisition related to, the proposed replacement facility or new
2 facility. This subsection shall not apply to a speculative
3 building.

4 (4) Before adopting a resolution establishing a plant
5 rehabilitation district or industrial development district, the
6 legislative body shall give written notice by certified mail to the
7 owners of all real property within the proposed plant
8 rehabilitation district or industrial development district and
9 shall hold a public hearing on the establishment of the plant
10 rehabilitation district or industrial development district at which
11 those owners and other residents or taxpayers of the local
12 governmental unit shall have a right to appear and be heard.

13 (5) The legislative body of the local governmental unit, in
14 its resolution establishing a plant rehabilitation district, shall
15 set forth a finding and determination that property comprising not
16 less than 50% of the state equalized valuation of the industrial
17 property within the district is obsolete.

18 (6) A plant rehabilitation district or industrial development
19 district established by a township shall be only within the
20 unincorporated territory of the township and shall not be within a
21 village.

22 (7) Industrial property that is part of an industrial
23 development district or a plant rehabilitation district may also be
24 part of a tax increment district established under the tax
25 increment finance authority act, 1980 PA 450, MCL 125.1801 to
26 125.1830.

27 (8) A local governmental unit, by resolution of its

1 legislative body, may terminate a plant rehabilitation district or
2 an industrial development district, if there are no industrial
3 facilities exemption certificates in effect in the plant
4 rehabilitation district or the industrial development district on
5 the date of the resolution to terminate.

6 (9) Before acting on a proposed resolution terminating a plant
7 rehabilitation district or an industrial development district, the
8 local governmental unit shall give at least 14 days' written notice
9 by certified mail to the owners of all real property within the
10 plant rehabilitation district or industrial development district as
11 determined by the tax records in the office of the assessor or the
12 treasurer of the local tax collecting unit in which the property is
13 located and shall hold a public hearing on the termination of the
14 plant rehabilitation district or industrial development district at
15 which those owners and other residents or taxpayers of the local
16 governmental unit, or others, shall have a right to appear and be
17 heard.

18 (10) A NEXT MICHIGAN DEVELOPMENT CORPORATION MAY NOT ESTABLISH
19 A PLANT REHABILITATION DISTRICT OR AN INDUSTRIAL DEVELOPMENT
20 DISTRICT NOR APPROVE AN APPLICATION FOR AN INDUSTRIAL FACILITIES
21 EXEMPTION CERTIFICATE FOR INDUSTRIAL PROPERTY FOR AN ELIGIBLE
22 BUSINESS WITHOUT THE PRIOR WRITTEN APPROVAL OF THE STATE TREASURER
23 AND THE PRESIDENT OF THE MICHIGAN STRATEGIC FUND. IN DETERMINING
24 WHETHER TO ESTABLISH A PLANT REHABILITATION DISTRICT OR INDUSTRIAL
25 DEVELOPMENT DISTRICT OR APPROVE AN INDUSTRIAL FACILITIES EXEMPTION
26 CERTIFICATE, THE STATE TREASURER AND THE PRESIDENT OF THE MICHIGAN
27 STRATEGIC FUND SHALL CONSIDER ALL OF THE FOLLOWING:

1 (A) WHETHER THE FACILITY HAS THE ABILITY TO BE LOCATED OUTSIDE
2 OF THIS STATE.

3 (B) THE NUMBER OF JOBS AND THE AMOUNT OF THE WAGES FOR THOSE
4 JOBS AT THE FACILITY.

5 (C) WHETHER THE FACILITY BEING LOCATED IN THIS STATE WILL BE A
6 NET BENEFIT FOR THIS STATE.

7 (D) WHETHER THE OPERATION OF THE FACILITY WILL HAVE A NEGATIVE
8 EFFECT ON EMPLOYMENT IN OTHER AREAS OF THIS STATE.

9 (E) WHETHER THE FACILITY WILL LIKELY LOCATE IN THIS STATE
10 WITHOUT THE INCENTIVE AND WHETHER THE USE OF THE INCENTIVE PUTS
11 OTHER PORTIONS OF THIS STATE AT AN UNFAIR COMPETITIVE DISADVANTAGE.