

SUBSTITUTE FOR
HOUSE BILL NO. 4844

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 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, 4, [9, and 21] (MCL 207.552, 207.554, [] 207.559 [, and 207.571]), section 2 as amended by 1986 PA 66, section 4 as amended by 1995 PA 218, and section 9 as amended by 1996 PA 513.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) "Commission" means the state tax commission
2 created by ~~Act No. 360 of the Public Acts of 1927, as amended,~~
3 ~~being sections 209.101 to 209.107 of the Michigan Compiled Laws~~
4 1927 PA 360, MCL 209.101 TO 209.107.

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

4 (3) "Replacement facility" means 1 OF THE FOLLOWING:

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

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

23 (4) "New facility" means new industrial property other than
24 a replacement facility to be built in a plant rehabilitation dis-
25 trict or industrial development district.

26 (5) "Local governmental unit" means a city, village, or
27 township.

1 (6) "Industrial property" means land improvements,
2 buildings, structures, and other real property, and machinery,
3 equipment, furniture, and fixtures or any part or accessory
4 ~~thereof~~ whether completed or in the process of construction
5 comprising an integrated whole, the primary purpose and use of
6 which is the manufacture of goods or materials or the processing
7 of goods and materials by physical or chemical change; ~~the oper-~~
8 ~~ation of a theme and recreation park located in an industrial~~
9 ~~park district;~~ property acquired, constructed, altered, or
10 installed due to the passage of proposal A in 1976; the operation
11 of a hydro-electric dam by a private company other than a public
12 utility; or agricultural processing facilities. ~~For certifi-~~
13 ~~cates granted between April 1, 1986 and September 30, 1986,~~
14 ~~industrial property shall include the real and personal property~~
15 ~~of a nonprofit cooperative power corporation that is used as an~~
16 ~~office, warehouse, or similar facility, and that is located on~~
17 ~~land owned by the nonprofit cooperative corporation.~~ Industrial
18 property ~~shall include~~ INCLUDES facilities related to a manu-
19 facturing operation under the same ownership, including but not
20 limited to office, engineering, research and development, ware-
21 housing, or parts distribution facilities. Industrial property
22 ~~shall also include~~ INCLUDES research and development labora-
23 tories of companies other than those companies ~~which~~ THAT manu-
24 facture the products developed from their research activities and
25 research development laboratories of a manufacturing company that
26 are unrelated to the products of the company. [FOR APPLICATIONS
APPROVED BY THE LEGISLATIVE BODY OF A LOCAL GOVERNMENTAL UNIT
BETWEEN JUNE 30, 1999 AND JUNE 30, 2002,] INDUSTRIAL
27 PROPERTY ALSO INCLUDES AN ELECTRIC GENERATING PLANT THAT IS NOT

1 OWNED BY A LOCAL UNIT OF GOVERNMENT. INDUSTRIAL PROPERTY ALSO
2 INCLUDES CONVENTION AND TRADE CENTERS OVER 250,000 SQUARE FEET IN
3 SIZE. INDUSTRIAL PROPERTY MAY BE OWNED OR LEASED. HOWEVER, IN
4 THE CASE OF LEASED PROPERTY, THE LESSEE IS LIABLE FOR PAYMENT OF
5 AD VALOREM PROPERTY TAXES AND SHALL FURNISH PROOF OF THAT
6 LIABILITY. Industrial property ~~shall~~ DOES not include any of
7 the following:

8 (a) Land.

9 (b) Property of a public utility other than ~~a nonprofit~~
10 ~~cooperative power corporation as described in this section~~ AN
11 ELECTRIC GENERATING PLANT THAT IS NOT OWNED BY A LOCAL UNIT OF
12 GOVERNMENT [AND FOR WHICH AN APPLICATION WAS APPROVED BY THE
LEGISLATIVE BODY OF A LOCAL GOVERNMENTAL UNIT BETWEEN JUNE 30, 1999
AND JUNE 30, 2002].

13 (c) Inventory.

14 ~~Industrial property may be owned or leased if, in the case~~
15 ~~of leased property, the lessee is liable for payment of ad~~
16 ~~valorem property taxes and furnishes proof of that liability.~~

17 (7) "Obsolete industrial property" means industrial property
18 the condition of which is substantially less than an economically
19 efficient functional condition.

20 (8) "Economically efficient functional condition" means a
21 state or condition of property the desirability and usefulness of
22 which is not impaired due to changes in design, construction,
23 technology, or improved production processes, or from external
24 influencing factors which make the property less desirable and
25 valuable for continued use.

26 (9) "Research and development laboratories" means building
27 and structures, including the machinery, equipment, furniture,

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1 and fixtures located ~~therein~~ IN THE BUILDING OR STRUCTURE, used
2 or to be used for research or experimental purposes that would be
3 considered qualified research as that term is used in section 30
4 of the internal revenue code, except that qualified research
5 ~~shall include~~ ALSO INCLUDES qualified research funded by grant,
6 contract, or otherwise by another person or governmental entity.

7 (10) "Manufacture of goods or materials" or "processing of
8 goods or materials" means any type of operation that would be
9 conducted by an entity included in the classifications provided
10 by ~~division D, manufacturing, of the standard classification~~
11 ~~manual of 1972, published by the United States~~ SECTOR 31-33 --
12 MANUFACTURING, OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION
13 SYSTEM -- UNITED STATES, 1997, PUBLISHED BY THE office of manage-
14 ment and budget, regardless of whether the entity conducting
15 ~~such an~~ THAT operation is included ~~therein~~ IN THAT MANUAL.

16 ~~(11) For purposes of this act, "nonprofit power~~
17 ~~corporation" means a nonprofit power corporation as described in~~
18 ~~section 261(4) of Act No. 162 of the Public Acts of 1982, being~~
19 ~~section 450.2261 of the Michigan Compiled Laws, whose primary~~
20 ~~business is the sale of electric power to other nonprofit elec-~~
21 ~~tric corporations in this state.~~

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

1 (2) The legislative body of a local governmental unit may
2 establish a plant rehabilitation district or an industrial
3 development district on its own initiative or upon a written
4 request filed by the owner or owners of 75% of the state equal-
5 ized value of the industrial property located within a proposed
6 plant rehabilitation district or industrial development
7 district. This request shall be filed with the clerk of the
8 local governmental unit.

9 (3) Except as provided in section ~~9(2)(i)~~ 9(2)(H), after
10 December 31, 1983, a request for the establishment of a proposed
11 plant rehabilitation district or industrial development district
12 shall be filed only in connection with a proposed replacement
13 facility or new facility, the construction, acquisition, alter-
14 ation, or installation of or for which has not commenced at the
15 time of the filing of the request. The legislative body of a
16 local governmental unit shall not establish a plant rehabilita-
17 tion district or an industrial development district pursuant to
18 subsection (2) if it finds that the request for the district was
19 filed after the commencement of construction, alteration, or
20 installation of, or of an acquisition related to, the proposed
21 replacement facility or new facility. This subsection shall not
22 apply to a speculative building.

23 (4) Before adopting a resolution establishing a plant reha-
24 bilitation district or industrial development district, the leg-
25 islative body shall give written notice by certified mail to the
26 owners of all real property within the proposed plant
27 rehabilitation district or industrial development district and

1 shall hold a public hearing on the establishment of the plant
2 rehabilitation district or industrial development district at
3 which those owners and other residents or taxpayers of the local
4 governmental unit shall have a right to appear and be heard.

5 (5) The legislative body of the local governmental unit, in
6 its resolution establishing a plant rehabilitation district,
7 shall set forth a finding and determination that property com-
8 prising not less than 50% of the state equalized valuation of the
9 industrial property within the district is obsolete.

10 (6) A plant rehabilitation district or industrial develop-
11 ment district established by a township shall be only within the
12 unincorporated territory of the township and shall not be within
13 a village.

14 (7) Industrial property that is part of an industrial devel-
15 opment district or a plant rehabilitation district may also be
16 part of a tax increment district established under the tax incre-
17 ment finance authority act, ~~Act No. 450 of the Public Acts of~~
18 ~~1980, being sections 125.1801 to 125.1830 of the Michigan~~
19 ~~Compiled Laws~~ 1980 PA 450, MCL 125.1801 TO 125.1830.

20 Sec. 9. (1) The legislative body of the local governmental
21 unit, in its resolution approving an application, shall set forth
22 a finding and determination that the granting of the industrial
23 facilities exemption certificate, considered together with the
24 aggregate amount of industrial facilities exemption certificates
25 previously granted and currently in force, shall not have the
26 effect of substantially impeding the operation of the local
27 governmental unit or impairing the financial soundness of a

1 taxing unit that levies an ad valorem property tax in the local
2 governmental unit in which the facility is located or to be
3 located. If the state equalized valuation of property proposed
4 to be exempt pursuant to an application under consideration, con-
5 sidered together with the aggregate state equalized valuation of
6 property exempt under certificates previously granted and cur-
7 rently in force, exceeds 5% of the state equalized valuation of
8 the local governmental unit, the commission, with the approval of
9 the state treasurer, shall make a separate finding and shall
10 include a statement in the order approving the industrial facili-
11 ties exemption certificate that exceeding that amount shall not
12 have the effect of substantially impeding the operation of the
13 local governmental unit or impairing the financial soundness of
14 an affected taxing unit.

15 (2) Except for an application for a speculative building,
16 which is governed by subsection (4), the legislative body of the
17 local governmental unit shall not approve an application and the
18 commission shall not grant an industrial facilities exemption
19 certificate unless the applicant complies with all of the follow-
20 ing requirements:

21 (a) The commencement of the restoration, replacement, or
22 construction of the facility occurred not earlier than 12 months
23 before the filing of the application for the industrial facili-
24 ties exemption certificate. If the application is not filed
25 within the 12-month period, the application may be filed within
26 the succeeding 12-month period and the industrial facilities
27 exemption certificate shall in this case expire 1 year earlier

1 than it would have expired if the application had been timely
2 filed. This subdivision does not apply for applications filed
3 with the local governmental unit after December 31, 1983.

4 (b) For applications made after December 31, 1983, the pro-
5 posed facility shall be located within a plant rehabilitation
6 district or industrial development district that was duly estab-
7 lished in a local governmental unit eligible under this act to
8 establish a district and that was established upon a request
9 filed or by the local governmental unit's own initiative taken
10 before the commencement of the restoration, replacement, or con-
11 struction of the facility.

12 (c) For applications made after December 31, 1983, the com-
13 mencement of the restoration, replacement, or construction of the
14 facility occurred not earlier than 6 months before the filing of
15 the application for the industrial facilities exemption
16 certificate.

17 (d) The application relates to a construction, restoration,
18 or replacement program that when completed constitutes a new or
19 replacement facility within the meaning of this act and that
20 shall be situated within a plant rehabilitation district or
21 industrial development district duly established in a local gov-
22 ernmental unit eligible under this act to establish the
23 district.

24 (e) Completion of the facility is calculated to, and will at
25 the time of issuance of the certificate have the reasonable like-
26 lihood to create employment, retain employment, prevent a loss of

1 employment, or produce energy in the community in which the
2 facility is situated.

3 ~~-(f) Completion of the facility shall not have the effect of~~
4 ~~transferring employment from 1 or more local governmental units~~
5 ~~of this state to the local governmental unit in which the facil-~~
6 ~~ity is to be located, except that this restriction does not pre-~~
7 ~~vent the granting of a certificate if the legislative body of~~
8 ~~each local governmental unit from which employment is to be~~
9 ~~transferred consents by resolution to the granting of the~~
10 ~~certificate. If the local governmental unit does not give its~~
11 ~~consent, a copy of the resolution of denial showing reasons for~~
12 ~~the denial shall be filed within 20 days after adoption with the~~
13 ~~department of consumer and industry services.~~

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

24 (G) ~~-(h)-~~ The provisions of subdivision (c) do not apply to
25 a new facility located in an existing industrial development dis-
26 trict owned by a person who filed an application for an
27 industrial facilities exemption certificate in April of 1992 if

1 the application was approved by the local governing body and was
2 denied by the state tax commission in April of 1993.

3 (H) ~~—(i)—~~ The provisions of subdivisions (b) and (c) and
4 section 4(3) do not apply to 1 or more of the following:

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

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

25 (iii) A facility located in an industrial development dis-
26 trict that was established in December 1995 and was owned by a
27 person who filed an application for an industrial facilities

1 exemptions certificate in November or December 1995 for
2 construction that was commenced in September 1995.

3 (I) ~~-(j)-~~ The provisions of subdivision (c) do not apply to
4 any of the following:

5 (i) A new facility located in an existing industrial devel-
6 opment district owned by a person who filed an application for an
7 industrial facilities exemption certificate in October 1993 if
8 the application was approved by the legislative body of the local
9 governmental unit and the real property portion of the applica-
10 tion was denied by the state tax commission in December 1993.

11 (ii) A new facility located in an existing industrial devel-
12 opment district owned by a person who filed an application for an
13 industrial facilities exemption certificate in September 1993 if
14 the personal property portion of the application was approved by
15 the legislative body of the local governmental unit and the real
16 property portion of the application was denied by the legislative
17 body of the local governmental unit in October 1993 and subse-
18 quently approved by the legislative body of the local governmen-
19 tal unit in September 1994.

20 (iii) A facility located in an existing industrial develop-
21 ment district owned by a person who filed an application for an
22 industrial facilities exemption certificate in August 1993 if the
23 application was approved by the local governmental unit in
24 September 1993 and the application was denied by the state tax
25 commission in December 1993.

26 (iv) A facility located in an existing industrial
27 development district occupied by a person who filed an

1 application for an industrial facilities exemption certificate in
2 June of 1995 if the application was approved by the legislative
3 body of the local governmental unit in October of 1995 for con-
4 struction that was commenced in November or December of 1994.

5 (v) A facility located in an existing industrial development
6 district owned by a person who filed an application for an indus-
7 trial facilities exemption certificate in June of 1995 if the
8 application was approved by the legislative body of the local
9 governmental unit in July of 1995 and the personal property por-
10 tion of the application was approved by the state tax commission
11 in November of 1995.

[(J) IF THE FACILITY IS LOCATING IN A PLANT REHABILITATION
DISTRICT OR AN INDUSTRIAL DEVELOPMENT DISTRICT FROM ANOTHER LOCATION
IN THIS STATE, THE OWNER OF THE FACILITY IS NOT DELINQUENT IN ANY OF
THE TAXES DESCRIBED IN SECTION 10(1)(A) OF THE MICHIGAN RENAISSANCE
ZONE ACT, 1996 PA 376, MCL 125.2690, OR SUBSTANTIALLY DELINQUENT IN
ANY OF THE TAXES DESCRIBED IN AND AS PROVIDED UNDER SECTION 10(1)(B)
OF THE MICHIGAN RENAISSANCE ZONE ACT, 1996 PA 376, MCL 125.2690.]

12 (3) If the replacement facility when completed will not be
13 located on the same premises or contiguous premises as the obso-
14 lete industrial property, then the applicant shall make provision
15 for the obsolete industrial property by demolition, sale, or
16 transfer to another person with the effect that the obsolete
17 industrial property shall within a reasonable time again be
18 subject to assessment and taxation under the general property tax
19 act, ~~Act No. 206 of the Public Acts of 1893, being sections~~
20 ~~211.1 to 211.157 of the Michigan Compiled Laws~~ 1893 PA 206, MCL
21 211.1 TO 211.157, or be used in a manner consistent with the gen-
22 eral purposes of this act, subject to approval of the
23 commission.

24 (4) The legislative body of the local governmental unit
25 shall not approve an application and the commission shall not
26 grant an industrial facilities exemption certificate that applies
27 to a speculative building unless the speculative building is or

1 is to be located in a plant rehabilitation district or industrial
2 development district duly established by a local governmental
3 unit eligible under this act to establish a district; the specu-
4 lative building was constructed less than 9 years before the
5 filing of the application for the industrial facilities exemption
6 certificate; the speculative building has not been occupied since
7 completion of construction; and the speculative building other-
8 wise qualifies under subsection (2)(e) ~~and (f)~~ for an indus-
9 trial facilities exemption certificate. An industrial facilities
10 exemption certificate granted under this subsection shall expire
11 as provided in section 16(3).

12 (5) Not later than September 1, 1989, the commission shall
13 provide to all local assessing units the name, address, and tele-
14 phone number of the person on the commission staff responsible
15 for providing procedural information concerning this act. After
16 October 1, 1989, a local unit of government shall notify each
17 prospective applicant of this information in writing.

18 (6) Notwithstanding any other provision of this act, if on
19 December 29, 1986 a local governmental unit passed a resolution
20 approving an exemption certificate for 10 years for real and per-
21 sonal property but the commission did not receive the application
22 until 1992 and the application was not made complete until 1995,
23 then the commission shall issue, for that property, an industrial
24 facilities exemption certificate that begins December 30, 1987
25 and ends December 30, 1997. The facility described in this sub-
26 section shall be taxed under this act as if it was granted an

1 industrial facilities exemption certificate on December 30,
2 1987.

3 (7) Notwithstanding any other provision of this act, if a
4 local governmental unit passed a resolution approving an indus-
5 trial facilities exemption certificate for a new facility on July
6 8, 1991 but rescinded that resolution and passed a resolution
7 approving an industrial facilities exemption certificate for that
8 same facility as a replacement facility on October 21, 1996, the
9 commission shall issue for that property an industrial facilities
10 exemption certificate that begins December 30, 1991 and ends
11 December 2003. The replacement facility described in this sub-
12 section shall be taxed under this act as if it was granted an
13 industrial facilities exemption certificate on December 30,
14 1991.

[(8) PROPERTY OWNED OR OPERATED BY A CASINO IS NOT INDUSTRIAL PROPERTY OR OTHERWISE ELIGIBLE FOR AN ABATEMENT OR REDUCTION OF AD VALOREM PROPERTY TAXES UNDER THIS ACT. AS USED IN THIS SUBSECTION, "CASINO" MEANS A CASINO OR A PARKING LOT, HOTEL, MOTEL, CONVENTION AND TRADE CENTER, OR RETAIL STORE OWNED OR OPERATED BY A CASINO, AN AFFILIATE, OR AN AFFILIATED COMPANY, REGULATED BY THIS STATE PURSUANT TO THE MICHIGAN GAMING CONTROL AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.201 TO 432.226.

Sec. 21. (1) An industrial facilities exemption certificate may be transferred and assigned by the holder ~~thereof~~ OF THE INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE to a new owner or lessee of the facility but only with the approval of the local governmental unit and the commission after application by the new owner or lessee, and notice and hearing in the same manner as provided in section 5 for the application for a certificate.

(2) IF THE OWNER OR LESSEE OF A FACILITY FOR WHICH AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE IS IN EFFECT RELOCATES THAT FACILITY OUTSIDE OF THE INDUSTRIAL DEVELOPMENT DISTRICT OR PLANT REHABILITATION DISTRICT DURING THE PERIOD IN WHICH THE INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE IS IN EFFECT, THE OWNER OR LESSEE IS LIABLE TO THE LOCAL GOVERNMENTAL UNIT FROM WHICH IT IS LEAVING, UPON RELOCATING, FOR AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE INDUSTRIAL FACILITIES TAX TO BE PAID BY THE OWNER OR LESSEE OF THAT FACILITY FOR THAT FACILITY FOR THE TAX YEARS REMAINING UNDER THE INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE THAT IS IN EFFECT AND THE GENERAL AD VALOREM PROPERTY TAX THAT THE OWNER OR LESSEE WOULD HAVE PAID IF THE OWNER OR LESSEE OF THAT FACILITY DID NOT HAVE AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE IN EFFECT FOR THOSE YEARS. IF THE LOCAL GOVERNMENTAL UNIT DETERMINES THAT IT IS IN ITS BEST INTEREST, THE LOCAL GOVERNMENTAL UNIT MAY FORGIVE THE LIABILITY OF THE OWNER OR LESSEE UNDER THIS SUBSECTION. THE PAYMENT PROVIDED IN THIS SUBSECTION SHALL BE DISTRIBUTED IN THE SAME MANNER AS THE INDUSTRIAL FACILITIES TAX IS DISTRIBUTED.]