

**SUBSTITUTE FOR
SENATE BILL NO. 146**

(As amended, May 8, 2008)

<<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, 4, 14, and 14a (MCL 207.552, 207.554, 207.564, and 207.564a), section 2 as amended by 2007 PA 146, section 4 as amended by 2004 PA 437, section 14 as amended by 2007 PA 146, and section 14a as amended by 2007 PA 39, and by adding section 17a.>>

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) "Replacement facility" means 1 of the following:

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

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

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

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

24 (6) "Industrial property" means land improvements, buildings,
25 structures, and other real property, and machinery, equipment,
26 furniture, and fixtures or any part or accessory whether completed
27 or in the process of construction comprising an integrated whole,

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

1 owned or leased. However, in the case of leased property, the
2 lessee is liable for payment of ad valorem property taxes and shall
3 furnish proof of that liability. Industrial property does not
4 include any of the following:

5 (a) Land.

6 (b) Property of a public utility other than an electric
7 generating plant that is not owned by a local unit of government
8 and for which an application was approved by the legislative body
9 of a local governmental unit between June 30, 1999 and December 31,
10 2007.

11 (c) Inventory.

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

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

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

1 otherwise by another person or governmental entity.

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

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

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

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

20 (b) The sorting and distribution center contains at least
21 950,000 square feet.

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

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

1 124.30, to a city with a population of more than 100,000 that
 2 levies an income tax under the city income tax act, 1964 PA 284,
 3 MCL 141.501 to 141.787.

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

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

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

12 (A) ~~(b) At least 90% of the property, excluding the~~
 13 ~~surrounding green space, is IS used for warehousing, distribution,~~
 14 ~~and logistics OR LOGISTIC purposes that provide food for~~
 15 ~~institutional, restaurant, hospital, or hotel customers OR FOR A~~
 16 **COMMUNICATION CENTER.**

17 ~~—— (c) Is located within a village and is within 15 miles of a~~
 18 ~~Michigan state border.~~

19 (B) ~~(d) Occupies 1 or more buildings or structures~~ **A BUILDING**
 20 **OR STRUCTURE** ~~that together are IS greater than 300,000~~ **100,000**
 21 square feet in size.

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

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

26 (b) Has at least 6 scheduled days of motorsports events each
 27 calendar year, at least 2 of which shall be comparable to nascar

1 nextel cup events held in 2007 or their successor events.

2 (c) Serves food and beverages at the facility during
3 sanctioned events each calendar year through concession outlets, a
4 majority of which are staffed by individuals who represent or are
5 members of 1 or more nonprofit civic or charitable organizations
6 that directly financially benefit from the concession outlets'
7 sales.

8 (d) Engages in tourism promotion.

9 (e) Has permanent exhibitions of motorsports history, events,
10 or vehicles.

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

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

23 (3) Except as provided in section 9(2)(h), after December 31,
24 1983, a request for the establishment of a proposed plant
25 rehabilitation district or industrial development district shall be
26 filed only in connection with a proposed replacement facility or
27 new facility, the construction, acquisition, alteration, or

1 installation of or for which has not commenced at the time of the
2 filing of the request. The legislative body of a local governmental
3 unit shall not establish a plant rehabilitation district or an
4 industrial development district pursuant to subsection (2) if it
5 finds that the request for the district was filed after the
6 commencement of construction, alteration, or installation of, or of
7 an acquisition related to, the proposed replacement facility or new
8 facility. This subsection shall not apply to a speculative
9 building.

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

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

24 (6) A plant rehabilitation district or industrial development
25 district established by a township shall be only within the
26 unincorporated territory of the township and shall not be within a
27 village.

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1 (7) Industrial property that is part of an industrial
2 development district or a plant rehabilitation district may also be
3 part of a tax increment district established under the tax
4 increment finance authority act, 1980 PA 450, MCL 125.1801 to
5 125.1830.

6 (8) A local governmental unit, by resolution of its
7 legislative body, may terminate a plant rehabilitation district or
8 an industrial development district, if there are no industrial
9 facilities exemption certificates in effect in the plant
10 rehabilitation district or the industrial development district on
11 the date of the resolution to terminate.

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

<<Sec. 14. (1) The amount of the industrial facility tax, in each
year for a replacement facility, shall be determined by multiplying the
total mills levied as ad valorem taxes for that year by all taxing units
within which the facility is situated by the taxable value of the real
and personal property of the obsolete industrial property for the tax
year immediately preceding the effective date of the industrial
facilities exemption certificate after deducting the taxable value of the
land and of the inventory as specified in section 19.

(2) The amount of the industrial facility tax, in each year for a
new facility or a speculative building for which an industrial facilities

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exemption certificate became effective before January 1, 1994, shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied for school operating purposes by a local school district within which the facility is located or mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus 1/2 of the number of mills levied for local school district operating purposes in 1993.

(3) Except as provided in subsection (4) **OR (5)**, the amount of the industrial facility tax in each year for a new facility or a speculative building for which an industrial facilities exemption certificate becomes effective after December 31, 1993, shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus, subject to section 14a, the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(4) For taxes levied after December 31, 2007, for the personal property tax component of an industrial facilities exemption certificate for a new facility or a speculative building that is sited on real property classified as industrial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, the amount of the industrial facility tax in each year for a new facility or a speculative building shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and the number of mills from which the property is exempt under section 1211(1) of the revised school code, 1976 PA 451, MCL 380.1211.

(5) FOR TAXES LEVIED AFTER DECEMBER 31, 2008, THE AMOUNT OF THE INDUSTRIAL FACILITY TAX IN EACH YEAR FOR A NEW FACILITY OR A SPECULATIVE BUILDING THAT IS SITED ON REAL PROPERTY CLASSIFIED AS COMMERCIAL REAL PROPERTY UNDER SECTION 34C OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.34C, AND THAT IS LOCATED IN A COUNTY THAT DOES NOT BORDER ANOTHER STATE OR COUNTRY SHALL BE DETERMINED BY MULTIPLYING THE TAXABLE VALUE OF THE FACILITY EXCLUDING THE LAND AND THE INVENTORY PERSONAL PROPERTY BY THE SUM OF 1/2 OF THE TOTAL MILLS LEVIED AS AD VALOREM TAXES FOR THAT YEAR BY ALL TAXING UNITS WITHIN WHICH THE FACILITY IS LOCATED OTHER THAN MILLS LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, AND MILLS LEVIED UNDER SECTION 1211 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, PLUS, SUBJECT TO SECTION 14A, THE NUMBER OF MILLS LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, AND MILLS LEVIED UNDER SECTION 1211 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211.

(6) ~~(5)~~ For a termination or revocation of only the real property

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component, or only the personal property component, of an industrial facilities exemption certificate as provided in this act, the valuation and the tax determined using that valuation shall be reduced proportionately to reflect the exclusion of the component with respect to which the termination or revocation has occurred.

Sec. 14a. (1) Within 60 days after the granting of an industrial facilities exemption certificate under section 7 for a new facility, the state treasurer may exclude 1/2 or all of the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the specific tax calculation on the facility under section 14(3) OR (5) if the state treasurer determines that reducing the number of mills used to calculate the specific tax under section 14(3) OR (5) is necessary to reduce unemployment, promote economic growth, and increase capital investment in this state. This section does not apply to the personal property tax component of a certificate described in section 14(4).

(2) WITHIN 60 DAYS AFTER THE GRANTING OF AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE UNDER SECTION 7 FOR A NEW FACILITY OR A SPECULATIVE BUILDING THAT IS SITED ON REAL PROPERTY CLASSIFIED AS COMMERCIAL REAL PROPERTY UNDER SECTION 34C OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.34C, AND THAT IS LOCATED IN A COUNTY THAT DOES NOT BORDER ANOTHER STATE OR COUNTRY, THE STATE TREASURER MAY EXCLUDE 1/2 OF THE NUMBER OF MILLS LEVIED UNDER SECTION 1211 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, FROM THE SPECIFIC TAX CALCULATION ON THE FACILITY UNDER SECTION 14(5) IF THE STATE TREASURER DETERMINES THAT REDUCING THE NUMBER OF MILLS USED TO CALCULATE THE SPECIFIC TAX UNDER SECTION 14(5) IS NECESSARY TO REDUCE UNEMPLOYMENT, PROMOTE ECONOMIC GROWTH, AND INCREASE CAPITAL INVESTMENT IN THIS STATE.

SEC. 17A. BEGINNING IN 2008 AND EACH YEAR AFTER 2008, THE COMMISSION SHALL REPORT TO THE SENATE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEES THAT HAVE JURISDICTION OVER ECONOMIC DEVELOPMENT ISSUES. THE COMMISSION SHALL ALSO MAKE THE REPORT AVAILABLE TO THE PUBLIC ON THE INTERNET. THE REPORT SHALL CONTAIN ALL OF THE FOLLOWING:

(A) THE AMOUNT OF QUALIFIED COMMERCIAL ACTIVITY THAT IS SUBJECT TO THE INDUSTRIAL FACILITY TAX IN THAT YEAR.

(B) THE AMOUNT OF LOCAL AD VALOREM PROPERTY TAX NOT COLLECTED DUE TO USE OF THE INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR QUALIFIED COMMERCIAL ACTIVITY IN THAT YEAR.

(C) THE INFORMATION CONTAINED IN THE INDUSTRIAL FACILITIES TAX EXEMPTION LIST FOR ALL YEARS REPORT THAT IS PRODUCED BY THE DEPARTMENT OF TREASURY.>>