

SENATE BILL No. 120

February 8, 1989, Introduced by Senators SHINKLE and CARL and referred to the Committee on Finance.

A bill to amend section 9 of act No. 198 of the Public Acts of 1974, 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,"

as amended by Act No. 33 of the Public Acts of 1985, being section 207.559 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 9 of Act No. 198 of the Public Acts of
2 1974, as amended by Act No. 33 of the Public Acts of 1985, being
3 section 207.559 of the Michigan Compiled Laws, is amended to read
4 as follows:

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

23 (2) Except for applications for a speculative building which
24 shall be governed by subsection (4), the legislative body of the
25 local governmental unit shall not approve an application and the
26 commission shall not grant an industrial facilities exemption

1 certificate unless the applicant complies with all of the
2 following requirements:

3 (a) The commencement of the restoration, replacement, or
4 construction of the facility occurred not earlier than 12 months
5 before the filing of the application for the industrial facili-
6 ties exemption certificate. If the application is not filed
7 within the 12-month period, the application may be filed within
8 the succeeding 12-month period and the industrial facilities
9 exemption certificate shall in this case expire 1 year earlier
10 than it would have expired if the application had been timely
11 filed. This subdivision shall not apply for applications filed
12 with the local governmental unit after December 31, 1983, unless
13 a district was created in 1983 or 1984 and the owner of the
14 industrial property filed a written request for the establishment
15 of an industrial development district with the local governmental
16 unit pursuant to section 4(2) prior to December 31, 1983 and
17 prior to construction.

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

26 (c) For applications made after December 31, 1983, ~~except~~
27 ~~for a district created in 1983 or 1984, if the owner of the~~

1 ~~industrial property filed a written request for the establishment~~
2 ~~of an industrial development district with the local governmental~~
3 ~~unit pursuant to section 4(2) prior to December 31, 1983, and~~
4 ~~prior to construction,~~ the commencement of the restoration,
5 replacement, or construction of the facility occurred not earlier
6 than 6 months before the filing of the application for the indus-
7 trial facilities exemption certificate — EXCEPT FOR THE
8 FOLLOWING:

9 (i) AN APPLICATION FOR A DISTRICT CREATED IN 1983 OR 1984,
10 IF THE OWNER OF INDUSTRIAL PROPERTY FILED A WRITTEN REQUEST FOR
11 THE ESTABLISHMENT OF AN INDUSTRIAL DEVELOPMENT DISTRICT WITH THE
12 LOCAL GOVERNMENTAL UNIT PURSUANT TO SECTION 4(2) BEFORE
13 DECEMBER 31, 1983 AND BEFORE THE COMMENCEMENT OF CONSTRUCTION.

14 (ii) AN APPLICATION FROM AN OWNER OF A FACILITY LOCATED IN A
15 DISTRICT CREATED IN 1986, IF THE OWNER RECEIVED AN INDUCEMENT
16 RESOLUTION BEFORE THE COMMENCEMENT OF CONSTRUCTION.

17 (d) The application relates to a construction, restoration,
18 or replacement program ~~which~~ THAT when completed constitutes a
19 new or replacement facility within the meaning of this act and
20 ~~which~~ THAT shall be situated within a plant rehabilitation dis-
21 trict or industrial development district duly established in a
22 local governmental 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 the state to the local governmental unit in which the facility
6 is to be located, except that this restriction shall not prevent
7 the granting of a certificate if the legislative body of each
8 local governmental unit from which employment is to be trans-
9 ferred 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 commerce.

14 (g) Completion of the facility does not constitute merely
15 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, shall not constitute an impediment to the issuance of
21 an industrial facilities exemption certificate if other criteria
22 in this section and act are met. This subdivision ~~shall~~ DOES
23 not apply to a new facility.

24 (3) If the replacement facility when completed will not be
25 located on the same premises or contiguous premises as the obso-
26 lete industrial property, then the applicant shall make provision
27 for the obsolete industrial property by way of demolition, sale,

1 or transfer to another person with the effect that the obsolete
2 industrial property shall within a reasonable time again be
3 subject to assessment and taxation under Act No. 206 of the
4 Public Acts of 1893, as amended, being sections 211.1 to 211.157
5 of the Michigan Compiled Laws, or be used in a manner consistent
6 with the general purposes of this act, subject to approval of the
7 commission.

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