

**SUBSTITUTE FOR
HOUSE BILL NO. 5895**

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 section 2 (MCL 207.552), as amended by 2007 PA 146.

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, **OPERATION OF A MAJOR DISTRIBUTION AND LOGISTICS FACILITY,**
5 **OPERATION OF A HEADQUARTERS FACILITY, OPERATION OF A COMPETITIVE**
6 **EDGE TECHNOLOGY BUSINESS, OPERATION OF AN INFORMATION TECHNOLOGY**
7 **FACILITY, OPERATION OF A FACILITY FOR WHICH THE BUSINESS THAT OWNS**
8 **OR OPERATES THE FACILITY IS AN AUTHORIZED BUSINESS ELIGIBLE FOR TAX**
9 **CREDITS DESCRIBED IN SECTION 9 OF THE MICHIGAN ECONOMIC GROWTH**
10 **AUTHORITY ACT, 1995 PA 24, MCL 207.809,** the manufacture of goods or
11 materials, creation or synthesis of biodiesel fuel, or the
12 processing of goods and materials by physical or chemical change;
13 property acquired, constructed, altered, or installed due to the
14 passage of proposal A in 1976; the operation of a hydro-electric
15 dam by a private company other than a public utility; or
16 agricultural processing facilities. Industrial property includes
17 facilities related to a manufacturing operation under the same
18 ownership, including, but not limited to, office, engineering,
19 research and development, warehousing, or parts distribution
20 facilities. Industrial property also includes research and
21 development laboratories of companies other than those companies
22 that manufacture the products developed from their research
23 activities and research development laboratories of a manufacturing
24 company that are unrelated to the products of the company. For
25 applications approved by the legislative body of a local
26 governmental unit between June 30, 1999 and December 31, 2007,
27 industrial property also includes an electric generating plant that

1 is not owned by a local unit of government, including, but not
2 limited to, an electric generating plant fueled by biomass.

3 Industrial property also includes convention and trade centers over
4 250,000 square feet in size. Industrial property also includes a
5 federal reserve bank operating under 12 USC 341, located in a city
6 with a population of 750,000 or more. Industrial property may be
7 owned or leased. However, in the case of leased property, the
8 lessee is liable for payment of ad valorem property taxes and shall
9 furnish proof of that liability. Industrial property does not
10 include any of the following:

11 (a) Land.

12 (b) Property of a public utility other than an electric
13 generating plant that is not owned by a local unit of government
14 and for which an application was approved by the legislative body
15 of a local governmental unit between June 30, 1999 and December 31,
16 2007.

17 (c) Inventory.

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

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

27 (9) "Research and development laboratories" means building and

1 structures, including the machinery, equipment, furniture, and
2 fixtures located in the building or structure, used or to be used
3 for research or experimental purposes that would be considered
4 qualified research as that term is used in section 41 of the
5 internal revenue code, 26 USC 41, except that qualified research
6 also includes qualified research funded by grant, contract, or
7 otherwise by another person or governmental entity.

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

15 (11) "High-technology activity" means that term as defined in
16 section 3 of the Michigan economic growth authority act, 1995 PA
17 24, MCL 207.803.

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

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

26 (b) The sorting and distribution center contains at least
27 950,000 square feet.

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

4 (d) The private passenger motor vehicle assembly center is
5 located on land conditionally transferred by a township with a
6 population of more than 25,000 under 1984 PA 425, MCL 124.21 to
7 124.30, to a city with a population of more than 100,000 that
8 levies an income tax under the city income tax act, 1964 PA 284,
9 MCL 141.501 to 141.787.

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

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

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

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

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

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

26 (15) "Motorsports entertainment complex" means a closed-course
27 motorsports facility, and its ancillary grounds and facilities,

1 that satisfies all of the following:

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

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

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

12 (d) Engages in tourism promotion.

13 (e) Has permanent exhibitions of motorsports history, events,
14 or vehicles.

15 (16) "HEADQUARTERS FACILITY" MEANS A PROPOSED OFFICE AND
16 HEADQUARTERS CENTER THAT MEETS ALL OF THE FOLLOWING:

17 (A) IS THE PRINCIPAL OR CENTRAL ADMINISTRATIVE OFFICE OF A
18 MULTISTATE TAXPAYER WHERE NOT FEWER THAN 100 FULL-TIME HEADQUARTERS
19 STAFF EMPLOYEES ARE LOCATED AND EMPLOYED AND WHERE THE PRIMARY
20 HEADQUARTERS-RELATED FUNCTIONS AND SERVICES ARE PERFORMED.

21 (B) HAS BEEN APPROVED BY THE PRESIDENT OF THE MICHIGAN
22 STRATEGIC FUND. IN DETERMINING WHETHER TO APPROVE THE HEADQUARTERS
23 FACILITY, THE PRESIDENT OF THE MICHIGAN STRATEGIC FUND SHALL
24 CONSIDER ALL OF THE FOLLOWING:

25 (i) WHETHER THE FACILITY HAS THE ABILITY TO BE LOCATED OUTSIDE
26 OF THIS STATE.

27 (ii) THE NUMBER OF JOBS AND THE AMOUNT OF THE WAGES FOR THOSE

1 JOBS AT THE FACILITY.

2 (iii) WHETHER THE FACILITY BEING LOCATED IN THIS STATE WILL BE A
3 NET BENEFIT FOR THIS STATE.

4 (iv) WHETHER THE OPERATION OF THE FACILITY WILL HAVE A NEGATIVE
5 EFFECT ON EMPLOYMENT IN OTHER AREAS OF THIS STATE.

6 (17) "HEADQUARTERS-RELATED FUNCTIONS AND SERVICES" MEANS THOSE
7 FUNCTIONS INVOLVING FINANCIAL, PERSONNEL, ADMINISTRATIVE, LEGAL,
8 PLANNING, OR SIMILAR BUSINESS FUNCTIONS PERFORMED BY HEADQUARTERS
9 STAFF EMPLOYEES.

10 (18) "MAJOR DISTRIBUTION AND LOGISTICS FACILITY" MEANS A
11 PROPOSED DISTRIBUTION CENTER THAT MEETS ALL OF THE FOLLOWING:

12 (A) THAT CONTAINS AT LEAST 300,000 SQUARE FEET.

13 (B) HAS OR WILL HAVE AN ASSESSED VALUE OF \$5,000,000.00 OR
14 MORE FOR THE REAL PROPERTY.

15 (C) IS LOCATED WITHIN 35 MILES OF THE BORDER OF THIS STATE.

16 (D) HAS AS ITS PURPOSE THE DISTRIBUTION OF INVENTORY AND
17 MATERIALS TO FACILITIES OWNED BY THE TAXPAYER WHOSE PRIMARY
18 BUSINESS IS THE RETAIL SALE OF SPORTING GOODS AND RELATED
19 INVENTORY.

20 (E) HAS BEEN APPROVED BY THE PRESIDENT OF THE MICHIGAN
21 STRATEGIC FUND. IN DETERMINING WHETHER TO APPROVE THE MAJOR
22 DISTRIBUTION AND LOGISTICS FACILITY, THE PRESIDENT OF THE MICHIGAN
23 STRATEGIC FUND SHALL CONSIDER ALL OF THE FOLLOWING:

24 (i) WHETHER THE FACILITY HAS THE ABILITY TO BE LOCATED OUTSIDE
25 OF THIS STATE.

26 (ii) WHETHER THE FACILITY WILL SERVE A MULTISTATE OR
27 MULTINATION MARKET.

1 (iii) THE NUMBER OF JOBS AND THE AMOUNT OF THE WAGES FOR THOSE
2 JOBS AT THE FACILITY.

3 (iv) WHETHER THE FACILITY BEING LOCATED IN THIS STATE WILL BE A
4 NET BENEFIT FOR THIS STATE.

5 (v) WHETHER THE OPERATION OF THE FACILITY WILL HAVE A NEGATIVE
6 EFFECT ON EMPLOYMENT IN OTHER AREAS OF THIS STATE.

7 (19) "COMPETITIVE EDGE TECHNOLOGY BUSINESS" MEANS A BUSINESS
8 THAT ENGAGES IN COMPETITIVE EDGE TECHNOLOGY AS THAT TERM IS DEFINED
9 IN SECTION 88A OF THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270, MCL
10 125.2088A.