

H.B. 5863

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 section 9 (MCL 207.559), as amended by 1996 PA 513.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

1 exemption certificate shall in this case expire 1 year earlier
2 than it would have expired if the application had been timely
3 filed. This subdivision does not apply for applications filed
4 with the local governmental unit after December 31, 1983.

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

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

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

25 (e) Completion of the facility is calculated to, and will at
26 the time of issuance of the certificate have the reasonable
27 likelihood to create employment, retain employment, prevent a

1 loss of employment, or produce energy in the community in which
2 the 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 (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, 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 (h) The provisions of subdivision (c) do not apply to a new
25 facility located in an existing industrial development district
26 owned by a person who filed an application for an industrial
27 facilities exemption certificate in April of 1992 if the

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

3 (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~~ EXEMPTION certificate in November or December 1995
2 for construction that was commenced in September 1995.

3 (iv) A FACILITY LOCATED IN AN INDUSTRIAL DEVELOPMENT DIS-
4 TRICT THAT WAS ESTABLISHED IN MARCH 1998 AND WAS OWNED BY A
5 PERSON WHO FILED AN APPLICATION FOR AN INDUSTRIAL FACILITIES
6 EXEMPTION CERTIFICATE IN DECEMBER 1997 FOR CONSTRUCTION THAT WAS
7 COMMENCED IN JUNE 1997.

8 (j) The provisions of subdivision (c) do not apply to any of
9 the following:

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

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

25 (iii) A facility located in an existing industrial develop-
26 ment district owned by a person who filed an application for an
27 industrial facilities exemption certificate in August 1993 if the

1 application was approved by the local governmental unit in
2 September 1993 and the application was denied by the state tax
3 commission in December 1993.

4 (iv) A facility located in an existing industrial develop-
5 ment district occupied by a person who filed an application for
6 an industrial facilities exemption certificate in June of 1995 if
7 the application was approved by the legislative body of the local
8 governmental unit in October of 1995 for construction that was
9 commenced in November or December of 1994.

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

17 (3) If the replacement facility when completed will not be
18 located on the same premises or contiguous premises as the obso-
19 lete industrial property, then the applicant shall make provision
20 for the obsolete industrial property by demolition, sale, or
21 transfer to another person with the effect that the obsolete
22 industrial property shall within a reasonable time again be
23 subject to assessment and taxation under the general property tax
24 act, ~~Act No. 206 of the Public Acts of 1893, being sections~~
25 ~~211.1 to 211.157 of the Michigan Compiled Laws~~ 1893 PA 206, MCL
26 211.1 TO 211.157, or be used in a manner consistent with the

1 general purposes of this act, subject to approval of the
2 commission.

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

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

24 (6) Notwithstanding any other provision of this act, if on
25 December 29, 1986 a local governmental unit passed a resolution
26 approving an exemption certificate for 10 years for real and
27 personal property but the commission did not receive the

1 application until 1992 and the application was not made complete
2 until 1995, then the commission shall issue, for that property,
3 an industrial facilities exemption certificate that begins
4 December 30, 1987 and ends December 30, 1997. The facility
5 described in this subsection shall be taxed under this act as if
6 it was granted an industrial facilities exemption certificate on
7 December 30, 1987.

8 (7) Notwithstanding any other provision of this act, if a
9 local governmental unit passed a resolution approving an indus-
10 trial facilities exemption certificate for a new facility on July
11 8, 1991 but rescinded that resolution and passed a resolution
12 approving an industrial facilities exemption certificate for that
13 same facility as a replacement facility on October 21, 1996, the
14 commission shall issue for that property an industrial facilities
15 exemption certificate that begins December 30, 1991 and ends
16 December 2003. The replacement facility described in this sub-
17 section shall be taxed under this act as if it was granted an
18 industrial facilities exemption certificate on December 30,
19 1991.