

HOUSE BILL No. 4191

February 3, 2005, Introduced by Reps. Robertson, Gosselin, Garfield, Acciavatti, Nitz, Shaffer, Ball and Vander Veen and referred to the Committee on Tax Policy.

A bill to provide for the establishment of alternative agricultural production districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of agricultural property; 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.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "alternative agricultural production tax act".

3 Sec. 2. As used in this act:

4 (a) "Agricultural production district" or "district" means an

1 area designated by a local governmental unit under section 3.

2 (b) "Agricultural production exemption certificate" or
3 "certificate" means a certificate issued pursuant to sections 4, 5,
4 and 6.

5 (c) "Alternative agricultural production tax" means the
6 specific tax levied under section 10.

7 (d) "Agricultural property" means farmland as that term is
8 defined in section 36101 of the natural resources and environmental
9 protection act, 1994 PA 451, MCL 324.36101.

10 (e) "Agricultural use value" means 50% of the value of the
11 agricultural property based on all of the following:

12 (i) Quality of soil.

13 (ii) Existing use.

14 (iii) Present economic income of structures and farm structures.

15 (iv) Present economic income of real property.

16 (f) "Commission" means the state tax commission created by
17 1927 PA 360, MCL 209.101 to 209.107.

18 (g) "Local governmental unit" means a city, village, or
19 township.

20 Sec. 3. (1) A local governmental unit, by resolution of its
21 legislative body, may establish an agricultural production district
22 that consists of 1 or more parcels or tracts of agricultural
23 property.

24 (2) The legislative body of a local governmental unit may
25 establish an agricultural production district on its own initiative
26 or upon a written request filed by the owner or owners of 75% of
27 the state equalized value of the agricultural property located

1 within a proposed agricultural production district. This request
2 shall be filed with the clerk of the local governmental unit.

3 (3) Before adopting a resolution establishing an agricultural
4 production district, the legislative body shall give written notice
5 by certified mail to the owners of all real property within the
6 proposed agricultural production district and shall hold a public
7 hearing on the establishment of the agricultural production
8 district at which those owners and other residents or taxpayers of
9 the local governmental unit shall have a right to appear and be
10 heard.

11 (4) An agricultural production district established by a
12 township shall be only within the unincorporated territory of the
13 township and shall not be within a village.

14 Sec. 4. (1) After the establishment of an agricultural
15 production district, the owner of agricultural property may file an
16 application for an agricultural production exemption certificate
17 with the clerk of the local governmental unit that established an
18 agricultural production district. The application shall be filed in
19 the manner and form prescribed by the commission. The application
20 shall contain or be accompanied by a general description of the
21 agricultural property, a general description of the proposed use of
22 the agricultural property, and a legal description of the real
23 property of the agricultural property.

24 (2) Upon receipt of an application for an agricultural
25 production exemption certificate, the clerk of the local
26 governmental unit shall notify in writing the assessor of the
27 assessing unit in which the agricultural property is located and

1 the legislative body of each taxing unit that levies ad valorem
2 property taxes in the local governmental unit in which the
3 agricultural property is located. Before acting upon the
4 application, the legislative body of the local governmental unit
5 shall afford the applicant, the assessor, and a representative of
6 the affected taxing units an opportunity for a hearing.

7 Sec. 5. The legislative body of the local governmental unit,
8 not more than 60 days after receipt by its clerk of the
9 application, shall by resolution either approve or disapprove the
10 application for an agricultural production exemption certificate in
11 accordance with section 8 and the other provisions of this act. If
12 disapproved, the reasons shall be set forth in writing in the
13 resolution. If approved, the clerk shall forward the application to
14 the commission within 60 days of approval or before October 31 of
15 that year, whichever is first, in order to receive the agricultural
16 production exemption certificate effective for the following year.
17 If disapproved, the clerk shall return the application to the
18 applicant. The applicant may appeal the disapproval to the
19 commission within 10 days after the date of the disapproval.

20 Sec. 6. (1) Within 60 days after receipt of an approved
21 application or an appeal of a disapproved application that was
22 submitted to the commission before October 31 of that year, the
23 commission shall determine whether the agricultural property
24 complies with section 8 and with the other provisions of this act.
25 If the commission so finds, it shall issue an agricultural
26 production exemption certificate. Before issuing a certificate, the
27 commission shall notify the state treasurer of the application and

1 shall obtain the written concurrence of the department of labor and
2 economic growth that the application complies with the requirements
3 in section 8. The effective date of the certificate for
4 agricultural property is the immediately succeeding December 31
5 following the date the certificate is issued.

6 (2) The commission shall send an agricultural property
7 exemption certificate, when issued, by certified mail to the
8 applicant, and a certified copy by certified mail to the assessor
9 of the assessing unit in which the agricultural property is located
10 and that copy shall be filed in his or her office. Notice of the
11 commission's refusal to issue a certificate shall be sent by
12 certified mail to the same persons.

13 Sec. 7. (1) Agricultural property for which an agriculture
14 production exemption certificate is in effect, for the period on
15 and after the effective date of the certificate and continuing so
16 long as the agricultural production exemption certificate is in
17 force, is exempt from ad valorem property taxes and the lessee,
18 occupant, user, or person in possession of that agricultural
19 property for the same period is exempt from ad valorem taxes
20 imposed under 1953 PA 189, MCL 211.181 to 211.182.

21 (2) Personal property that is exempt from the collection of ad
22 valorem property taxes under the general property tax act, 1893 PA
23 206, MCL 211.1 to 211.157, is exempt from the alternative
24 agricultural production tax imposed under section 10.

25 (3) If the agricultural production exemption certificate is
26 terminated or revoked, the agricultural property is subject to the
27 collection of taxes under the general property tax act, 1893 PA

1 206, MCL 211.1 to 211.157.

2 Sec. 8. The legislative body of the local governmental unit,
3 in its resolution approving an application, shall set forth a
4 finding and determination that the granting of the agricultural
5 production exemption certificate, considered together with the
6 aggregate amount of agricultural production exemption certificates
7 previously granted and currently in force, shall not have the
8 effect of substantially impeding the operation of the local
9 governmental unit or impairing the financial soundness of a taxing
10 unit that levies an ad valorem property tax in the local
11 governmental unit in which the agricultural property is located.

12 Sec. 9. (1) The assessor of each city or township in which
13 there is agricultural property with respect to which 1 or more
14 agricultural production exemption certificates have been issued and
15 are in force shall determine annually as of December 31 the value
16 and taxable value of each agricultural property separately, for
17 real property, having the benefit of a certificate.

18 (2) The assessor, upon receipt of notice of the filing of an
19 application for the issuance of a certificate, shall determine and
20 furnish to the local legislative body and the commission the value
21 of the property to which the application pertains and other
22 information as may be necessary to permit the local legislative
23 body and the commission to make the determinations required by
24 section 8.

25 Sec. 10. (1) Except as provided in subsection (5), there is
26 levied upon every owner of agricultural property to which an
27 agricultural production exemption certificate is issued a specific

1 tax to be known as the alternative agricultural production tax.

2 (2) The alternative agricultural production tax is an annual
3 tax, payable at the same times, in the same installments, and to
4 the same officer or officers as taxes collected under the general
5 property tax act, 1893 PA 206, MCL 211.1 to 211.157, are payable.
6 Except as otherwise provided in this section, the officer or
7 officers shall disburse the alternative agricultural production tax
8 payments received each year to and among this state and cities,
9 townships, villages, school districts, counties, and authorities,
10 at the same times and in the same proportions as required by law
11 for the disbursement of taxes collected under the general property
12 tax act, 1893 PA 206, MCL 211.1 to 211.157.

13 (3) Except as provided by subsection (4) for an intermediate
14 school district receiving state aid under section 56, 62, or 81 of
15 the state school aid act of 1979, 1979 PA 94, MCL 388.1656,
16 388.1662, and 388.1681, of the amount that would otherwise be
17 disbursed to or retained by the intermediate school district, all
18 or a portion, to be determined on the basis of the tax rates being
19 utilized to compute the amount of the state school aid, shall be
20 paid instead to the state treasury to the credit of the state
21 school aid fund established by section 11 of article IX of the
22 state constitution of 1963. This subsection does not apply to taxes
23 levied for either of the following:

24 (a) Mills allocated to an intermediate school district for
25 operating purposes as provided for under the property tax
26 limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

27 (b) An intermediate school district that is not receiving

1 state aid under section 56 or 62 of the state school aid act of
2 1979, 1979 PA 94, MCL 388.1656 and 388.1662.

3 (4) The amount of alternative agricultural production taxes to
4 be disbursed to a local school district, except for that amount of
5 tax attributable to mills levied under section 1211(2) of the
6 revised school code, 1976 PA 451, MCL 380.1211, and mills that are
7 not included as mills levied for school operating purposes under
8 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211,
9 shall be paid to the state treasury and credited to the state
10 school aid fund established by section 11 of article IX of the
11 state constitution of 1963.

12 (5) Agricultural property located in a renaissance zone under
13 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
14 125.2696, is exempt from the alternative agricultural production
15 tax levied under this act to the extent and for the duration
16 provided pursuant to the Michigan renaissance zone act, 1996 PA
17 376, MCL 125.2681 to 125.2696, except for that portion of the
18 alternative agricultural production tax attributable to a special
19 assessment or a tax described in section 7ff(2) of the general
20 property tax act, 1893 PA 206, MCL 211.7ff. The alternative
21 agricultural production tax calculated under this subsection shall
22 be disbursed proportionately to the local taxing unit or units that
23 levied the special assessment or the tax described in section
24 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

25 Sec. 11. (1) The amount of the alternative agricultural
26 production tax applicable to real property, until paid, shall be a
27 lien upon the real property to which the certificate is applicable.

1 Upon the filing by the officer of a certificate of nonpayment of
2 the alternative agricultural production tax applicable to real
3 property, together with an affidavit of proof of service of the
4 certificate of nonpayment upon the owner of the agricultural
5 property by certified mail, with the register of deeds of the
6 county in which the real property is situated, the lien may be
7 enforced in the same manner as provided by law for the foreclosure
8 of mortgage liens upon real property.

9 (2) On or after the December 31 immediately succeeding the
10 expiration of 60 days after the service upon the owner of a
11 certificate of nonpayment and the filing of the certificate of
12 nonpayment, if payment has not been made within the intervening 60
13 days, provided for by subsection (1), the agricultural production
14 exemption certificate is automatically terminated.

15 Sec. 12. The amount of the alternative agricultural production
16 tax in each year for agricultural property for which an
17 agricultural production exemption certificate is in effect shall be
18 determined by multiplying the agricultural use value of the
19 agricultural property by the total mills levied as ad valorem taxes
20 for that year by all taxing units within which the agricultural
21 property is located.

22 Sec. 13. Upon receipt of a request by certified mail to the
23 commission by the holder of an agricultural production exemption
24 certificate requesting revocation of the certificate, the
25 commission shall by order revoke the certificate.

26 Sec. 14. (1) The agricultural use value shall not increase
27 each year by more than the increase in the immediately preceding

1 year in the general price level or 5%, whichever is less, minus any
2 losses and plus all additions. As used in this section:

3 (a) "Additions" and "losses" mean those terms as defined in
4 section 34d of the general property tax act, 1893 PA 206, MCL
5 211.34d.

6 (b) "General price level" means that term as defined in
7 section 33 of article IX of the state constitution of 1963.

8 (2) If an agricultural production exemption certificate is
9 terminated or revoked or if the property no longer qualifies as
10 agricultural property, the owner of that property is liable to the
11 local unit of government in which that property is located in an
12 amount equal to the difference between the agricultural production
13 tax paid on that property and the amount that would have been
14 assessed against that property if that property were subject to ad
15 valorem property taxes collected under the general property tax
16 act, 1893 PA 206, MCL 211.1 to 211.157, for each year in which the
17 most recent agricultural production exemption certificate was in
18 effect, not to exceed 10 years.

19 Sec. 15. (1) The assessor of each city or township in which is
20 located agricultural property with respect to which an agricultural
21 production exemption certificate is in force shall annually
22 determine, with respect to each such agricultural property, an
23 assessment of the real and personal property comprising the
24 agricultural property having the benefit of an agricultural
25 production exemption certificate that would have been made under
26 the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, if
27 the certificate had not been in force. A holder of an agricultural

1 production exemption certificate shall furnish to the assessor the
2 information necessary for the determination.

3 (2) The assessor, having made the determination, shall
4 annually notify the commission, the legislative body of each unit
5 of local government that levies taxes upon property in the city or
6 township in which the agricultural property is located, and the
7 holder of the agricultural property exemption certificate of the
8 determination, separately stating the determinations for real
9 property and personal property, by certified mail not later than
10 October 15 based upon valuations as of the preceding December 31.

11 Sec. 16. The commission may promulgate rules as it deems
12 necessary for the administration of this act pursuant to the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328.

15 Sec. 17. An agricultural production exemption certificate
16 shall be in the form the commission determines but shall contain:

17 (a) A legal description of the real property of the
18 agricultural property.

19 (b) A statement that, unless revoked or terminated as provided
20 in this act, the agricultural production exemption certificate
21 shall remain in force in perpetuity.

22 Sec. 18. A party aggrieved by the issuance or refusal to
23 issue, revocation, transfer, or modification of an agricultural
24 production exemption certificate may appeal from the finding and
25 order of the commission in the manner and form and within the time
26 provided by the administrative procedures act of 1969, 1969 PA 306,
27 MCL 24.201 to 24.328.

1 Sec. 19. An agricultural production exemption certificate
2 shall be transferred and assigned by the holder of the certificate
3 to a new owner or lessee of the agricultural property as long as
4 the property is maintained as agricultural property.