



HOUSE BILL No. 5086

September 20, 1995, Introduced by Reps. Green, Rhead, Horton, Voorhees, Pitoniak and Perricone and referred to the Committee on Local Government.

A bill to amend sections 4, 9, and 16 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,"

section 4 as amended by Act No. 266 of the Public Acts of 1994, section 9 as amended by Act No. 379 of the Public Acts of 1994, and section 16 as amended by Act No. 417 of the Public Acts of 1982, being sections 207.554, 207.559, and 207.566 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4, 9, and 16 of Act No. 198 of the
2 Public Acts of 1974, section 4 as amended by Act No. 266 of the

1 Public Acts of 1994, section 9 as amended by Act No. 379 of the
2 Public Acts of 1994, and section 16 as amended by Act No. 417 of
3 the Public Acts of 1982, being sections 207.554, 207.559, and
4 207.566 of the Michigan Compiled Laws, are amended to read as
5 follows:

6 Sec. 4. (1) A local governmental unit, by resolution of its
7 legislative body, may establish plant rehabilitation districts
8 and industrial development districts that ~~may~~ consist of 1 or
9 more parcels or tracts of land or a portion of a parcel or tract
10 of land.

11 (2) The legislative body of a local governmental unit may
12 establish a plant rehabilitation district or an industrial devel-
13 opment district on its own initiative or upon a written request
14 filed by the owner or owners of 75% of the state equalized value
15 of the industrial property located within a proposed plant reha-
16 bilitation district or industrial development district. This
17 request shall be filed with the clerk of the local governmental
18 unit.

19 ~~(3) After December 31, 1983, a request for the establish-~~
20 ~~ment of a proposed plant rehabilitation district or industrial~~
21 ~~development district shall be filed only in connection with a~~
22 ~~proposed replacement facility or new facility, the construction,~~
23 ~~acquisition, alteration, or installation of or for which has not~~
24 ~~commenced at the time of the filing of the request. The legisla-~~
25 ~~tive body of a local governmental unit shall not establish a~~
26 ~~plant rehabilitation district or an industrial development~~
27 ~~district pursuant to subsection (2) if it finds that the request~~

1 ~~for the district was filed after the commencement of~~
2 ~~construction, alteration, or installation of, or of an acquisi-~~
3 ~~tion related to, the proposed replacement facility or new~~
4 ~~facility. This subsection shall not apply to a speculative~~
5 ~~building.~~

6 (3) ~~(4)~~ Before adopting a resolution establishing a plant
7 rehabilitation district or industrial development district, the
8 legislative body shall give written notice by certified mail to
9 the owners of all real property within the proposed plant reha-
10 bilitation district or industrial development district and shall
11 hold a public hearing on the establishment of the plant rehabili-
12 tation district or industrial development district at which ~~any~~
13 ~~of~~ those owners and ~~any~~ other ~~resident or taxpayer~~ RESIDENTS
14 OR TAXPAYERS of the local governmental unit shall have a right to
15 appear and be heard.

16 (4) ~~(5)~~ The legislative body of the local governmental
17 unit, in its resolution establishing a plant rehabilitation dis-
18 trict, shall set forth a finding and determination that property
19 comprising not less than 50% of the state equalized valuation of
20 the industrial property within the district is obsolete.

21 (5) ~~(6)~~ A plant rehabilitation district or industrial
22 development district established by a township shall be
23 ~~applicable~~ only within the unincorporated territory of the
24 township and shall not be within a village.

25 (6) ~~(7)~~ Industrial property ~~included as~~ THAT IS part of
26 an industrial development district or a plant rehabilitation
27 district may also be part of a tax increment district established

1 ~~pursuant to~~ UNDER the tax increment finance authority act, Act
2 No. 450 of the Public Acts of 1980, being sections 125.1801 to
3 125.1830 of the Michigan Compiled Laws.

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

26 (2) Except for an application for a speculative building,
27 which is governed by subsection (4), the legislative body of the

1 local governmental unit shall not approve an application and the
2 commission shall not grant an industrial facilities exemption
3 certificate unless the applicant complies with all of the follow-
4 ing requirements:

5 (a) The commencement of the restoration, replacement, or
6 construction of the facility occurred not earlier than 12 months
7 before the filing of the application for the industrial facili-
8 ties exemption certificate. If the application is not filed
9 within the 12-month period, the application may be filed within
10 the succeeding 12-month period and the industrial facilities
11 exemption certificate shall in this case expire 1 year earlier
12 than it would have expired if the application had been timely
13 filed. This subdivision does not apply for applications filed
14 with the local governmental unit after December 31, 1983.

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

23 (c) For applications made after December 31, 1983, the com-
24 mencement of the restoration, replacement, or construction of the
25 facility occurred not earlier than 6 months before the filing of
26 the application for the industrial facilities exemption
27 certificate.

1 (d) The application relates to a construction, restoration,
2 or replacement program that when completed constitutes a new or
3 replacement facility within the meaning of this act and that
4 shall be situated within a plant rehabilitation district or
5 industrial development district duly established in a local gov-
6 ernmental unit eligible under this act to establish the
7 district.

8 (e) Completion of the facility is calculated to, and will at
9 the time of issuance of the certificate have the reasonable like-
10 lihood to create employment, retain employment, prevent a loss of
11 employment, or produce energy in the community in which the
12 facility is situated.

13 (f) Completion of the facility shall not have the effect of
14 transferring employment from 1 or more local governmental units
15 of the state to the local governmental unit in which the facility
16 is to be located, except that this restriction does not prevent
17 the granting of a certificate if the legislative body of each
18 local governmental unit from which employment is to be trans-
19 ferred consents by resolution to the granting of the
20 certificate. If the local governmental unit does not give its
21 consent, a copy of the resolution of denial showing reasons for
22 the denial shall be filed within 20 days after adoption with the
23 department of commerce.

24 (g) Completion of the facility does not constitute merely
25 the addition of machinery and equipment for the purpose of
26 increasing productive capacity but rather is primarily for the
27 purpose and will primarily have the effect of restoration,

1 replacement, or updating the technology of obsolete industrial
2 property. An increase in productive capacity, even though sig-
3 nificant, ~~shall not constitute~~ IS NOT an impediment to the
4 issuance of an industrial facilities exemption certificate if
5 other criteria in this section and act are met. This subdivision
6 does not apply to a new facility.

7 (h) The provisions of subdivision (c) do not apply to a new
8 facility located in an existing industrial development district
9 owned by a person who filed an application for an industrial
10 facilities exemption certificate in April of 1992 if the applica-
11 tion was approved by the local governing body and was denied by
12 the state tax commission in April of 1993.

13 (I) THE PROVISIONS OF SUBDIVISIONS (B) AND (C) DO NOT APPLY
14 TO A FACILITY LOCATED IN AN INDUSTRIAL DEVELOPMENT DISTRICT OWNED
15 BY A PERSON WHO FILED AN APPLICATION FOR AN INDUSTRIAL FACILITIES
16 EXEMPTION CERTIFICATE IN APRIL 1995 THAT WAS UNANIMOUSLY SUP-
17 PORTED BY THE LEGISLATIVE BODY OF THE LOCAL GOVERNMENTAL UNIT BY
18 RESOLUTION PASSED IN MAY 1995. AN INDUSTRIAL FACILITIES EXEMP-
19 TION CERTIFICATE GRANTED UNDER THIS SUBDIVISION SHALL EXPIRE AS
20 PROVIDED IN SECTION 16(3).

21 (J) ~~(i)~~ The provisions of subdivision (c) do not apply to
22 any of the following:

23 (i) A new facility located in an existing industrial devel-
24 opment district owned by a person who filed an application for an
25 industrial facilities exemption certificate in October 1993 if
26 the application was approved by the legislative body of the local
27 governmental unit and the real property portion of the

1 application was denied by the state tax commission in December
2 1993.

3 (ii) A new facility located in an existing industrial devel-
4 opment district owned by a person who filed an application for an
5 industrial facilities exemption certificate in September 1993 if
6 the personal property portion of the application was approved by
7 the legislative body of the local governmental unit and the real
8 property portion of the application was denied by the legislative
9 body of the local governmental unit in October 1993 and subse-
10 quently approved by the legislative body of the local governmen-
11 tal unit in September 1994.

12 (iii) A facility located in an existing industrial develop-
13 ment district owned by a person who filed an application for an
14 industrial facilities exemption certificate in August 1993 if the
15 application was approved by the local governmental unit in
16 September 1993 and the application was denied by the state tax
17 commission in December 1993.

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

1 be used in a manner consistent with the general purposes of this
2 act, subject to approval of the 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 Sec. 16. (1) Unless earlier revoked as provided in section
25 15, an industrial facilities exemption certificate shall remain
26 in force and effect for a period to be determined by the
27 legislative body of the local governmental unit and commencing

1 with its effective date and ending on the December 31 next
2 following not more than 12 years after the completion of the
3 facility with respect to both the real property component and the
4 personal property component of the facility. The date of issu-
5 ance of a certificate of occupancy, if one is required, by THE
6 appropriate municipal authority ~~shall be~~ IS the date of comple-
7 tion of the facility.

8 (2) In the case of an application which was not filed within
9 12 months after the commencement of the restoration, replacement,
10 or construction of the facility but was filed within the succeed-
11 ing 12-month period as provided in section 9(2)(a), the indus-
12 trial facilities exemption certificate, unless earlier revoked as
13 provided in section 15, shall remain in force and effect for a
14 period commencing with its effective date and ending on the
15 December 31 next following not more than 11 years after comple-
16 tion of the facility with respect to both the real property com-
17 ponent and the personal property component of the facility. The
18 date of issuance of a certificate of occupancy, if ~~one~~ 1 is
19 required, by THE appropriate municipal authority ~~shall be~~ IS
20 the date of completion of the facility. This subsection ~~shall~~
21 DOES not apply ~~for~~ TO certificates issued after December 31,
22 1983.

23 (3) In the case of an application filed ~~pursuant to~~ UNDER
24 section 9(4), an industrial facilities exemption certificate,
25 unless earlier revoked as provided in section 15, shall remain in
26 force and effect for a period to be determined by the legislative
27 body of the local governmental unit and commencing on the

1 effective date of the certificate and ending on the December 31
2 next following not more than 11 years after the effective date of
3 the certificate.