



# HOUSE BILL No. 6055

September 11, 1996, Introduced by Reps. Pitoniak, Dobb, Brackenridge, DeMars, Weeks, Green, Scott, McNutt and Galloway and referred to the Committee on Local Government.

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. 1 of the Public Acts of 1996, 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. 1 of the Public Acts of 1996, 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 that levies an ad valorem property tax in the local govern-  
10 mental unit in which the facility is located or to be located.  
11 If the state equalized valuation of property proposed to be  
12 exempt pursuant to an application under consideration, considered  
13 together with the aggregate state equalized valuation of property  
14 exempt under certificates previously granted and currently in  
15 force, exceeds 5% of the state equalized valuation of the local  
16 governmental unit, the commission, with the approval of the state  
17 treasurer, shall make a separate finding and shall include a  
18 statement in the order approving the industrial facilities exemp-  
19 tion certificate that exceeding that amount shall not have the  
20 effect of substantially impeding the operation of the local gov-  
21 ernmental unit or impairing the financial soundness of an  
22 affected taxing unit.

23        (2) Except for an application for a speculative building,  
24 which is 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 does not apply for applications filed  
12 with the local governmental unit after December 31, 1983.

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

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

26       (d) The application relates to a construction, restoration,  
27 or replacement program that when completed constitutes a new or

1 replacement facility within the meaning of this act and that  
2 shall be situated within a plant rehabilitation district or  
3 industrial development district duly established in a local gov-  
4 ernmental unit eligible under this act to establish the  
5 district.

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

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

22 (g) Completion of the facility does not constitute merely  
23 the addition of machinery and equipment for the purpose of  
24 increasing productive capacity but rather is primarily for the  
25 purpose and will primarily have the effect of restoration,  
26 replacement, or updating the technology of obsolete industrial  
27 property. An increase in productive capacity, even though

1 significant, is not an impediment to the issuance of an  
2 industrial facilities exemption certificate if other criteria in  
3 this section and act are met. This subdivision does not apply to  
4 a new facility.

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

11 (i) The provisions of subdivisions (b) and (c) and  
12 section 4(3) do not apply to 1 or more of the following:

13 (i) A facility located in an industrial development district  
14 owned by a person who filed an application for an industrial  
15 facilities exemption certificate in October 1995 for construction  
16 that was commenced in July 1992 in a district that was estab-  
17 lished by the legislative body of the local governmental unit in  
18 July 1994. An industrial facilities exemption certificate  
19 described in this subparagraph shall expire as provided in sec-  
20 tion 16(3).

21 (ii) A facility located in an industrial development dis-  
22 trict that was established in January 1994 and was owned by a  
23 person who filed an application for an industrial facilities  
24 exemption certificate in February 1994 if the personal property  
25 and real property portions of the application were approved by  
26 the legislative body of the local governmental unit and the  
27 personal property portion of the application was approved by the

1 state tax commission in December 1994 and the real property  
2 portion of the application was denied by the state tax commission  
3 in December 1994. An industrial facilities exemption certificate  
4 described in this subparagraph shall expire as provided in sec-  
5 tion 16(3).

6 (iii) A facility located in an industrial development dis-  
7 trict that was established in December 1995 and was owned by a  
8 person who filed an application for an industrial facilities  
9 exemptions certificate in November or December 1995 for construc-  
10 tion that was commenced in September 1995.

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

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

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

1       (iii) A facility located in an existing industrial  
2 development district owned by a person who filed an application  
3 for an industrial facilities exemption certificate in August 1993  
4 if the application was approved by the local governmental unit in  
5 September 1993 and the application was denied by the state tax  
6 commission in December 1993.

7       (iv) A FACILITY LOCATED IN AN EXISTING INDUSTRIAL DEVELOP-  
8 MENT DISTRICT OCCUPIED BY A PERSON WHO FILED AN APPLICATION FOR  
9 AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE IN JUNE OF 1995 IF  
10 THE APPLICATION WAS APPROVED BY THE LEGISLATIVE BODY OF THE LOCAL  
11 GOVERNMENTAL UNIT IN OCTOBER OF 1995 FOR CONSTRUCTION THAT WAS  
12 COMMENCED IN NOVEMBER OR DECEMBER OF 1994.

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

24       (4) The legislative body of the local governmental unit  
25 shall not approve an application and the commission shall not  
26 grant an industrial facilities exemption certificate that applies  
27 to a speculative building unless the speculative building is or

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

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