

SENATE BILL No. 2

January 8, 2003, Introduced by Senator GILBERT and referred to the Committee on Finance.

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

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

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

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

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

11 (i) Quality of soil.

12 (ii) Existing use.

13 (iii) Present economic income of structures and farm
14 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
22 district that consists of 1 or more parcels or tracts of
23 agricultural property.

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

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

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

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

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

26 (2) Upon receipt of an application for an agricultural
27 production exemption certificate, the clerk of the local

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

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

23 Sec. 6. (1) Within 60 days after receipt of an approved
24 application or an appeal of a disapproved application that was
25 submitted to the commission before October 31 of that year, the
26 commission shall determine whether the agricultural property
27 complies with section 8 and with the other provisions of this

1 act. If the commission so finds, it shall issue an agricultural
2 production exemption certificate. Before issuing a certificate,
3 the commission shall notify the state treasurer of the
4 application and shall obtain the written concurrence of the
5 department of consumer and industry services that the application
6 complies with the requirements in section 8. The effective date
7 of the certificate for agricultural property is the immediately
8 succeeding December 31 following the date the certificate is
9 issued.

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

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

25 (2) Personal property that is exempt from the collection of
26 ad valorem property taxes under the general property tax act,
27 1893 PA 206, MCL 211.1 to 211.157, is exempt from the alternative

1 agricultural production tax imposed under section 10.

2 (3) If the agricultural production exemption certificate is
3 terminated or revoked, the agricultural property is subject to
4 the collection of taxes under the general property tax act, 1893
5 PA 206, MCL 211.1 to 211.157.

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

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

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

1 section 8.

2 Sec. 10. (1) Except as provided in subsection (5), there is
3 levied upon every owner of agricultural property to which an
4 agricultural production exemption certificate is issued a
5 specific tax to be known as the alternative agricultural
6 production tax.

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

19 (3) Except as provided by subsection (4) for an intermediate
20 school district receiving state aid under section 56, 62, or 81
21 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656,
22 388.1662, and 388.1681, of the amount that would otherwise be
23 disbursed to or retained by the intermediate school district, all
24 or a portion, to be determined on the basis of the tax rates
25 being utilized to compute the amount of the state school aid,
26 shall be paid instead to the state treasury to the credit of the
27 state school aid fund established by section 11 of article IX of

1 the state constitution of 1963. This subsection does not apply
2 to taxes levied for either of the following:

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

6 (b) An intermediate school district that is not receiving
7 state aid under section 56 or 62 of the state school aid act of
8 1979, 1979 PA 94, MCL 388.1656 and 388.1662.

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

18 (5) Agricultural property located in a renaissance zone under
19 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
20 125.2696, is exempt from the alternative agricultural production
21 tax levied under this act to the extent and for the duration
22 provided pursuant to the Michigan renaissance zone act, 1996
23 PA 376, MCL 125.2681 to 125.2696, except for that portion of the
24 alternative agricultural production tax attributable to a special
25 assessment or a tax described in section 7ff(2) of the general
26 property tax act, 1893 PA 206, MCL 211.7ff. The alternative
27 agricultural production tax calculated under this subsection

1 shall be disbursed proportionately to the local taxing unit or
2 units that levied the special assessment or the tax described in
3 section 7ff(2) of the general property tax act, 1893 PA 206,
4 MCL 211.7ff.

5 Sec. 11. (1) The amount of the alternative agricultural
6 production tax applicable to real property, until paid, shall be
7 a lien upon the real property to which the certificate is
8 applicable. Upon the filing by the officer of a certificate of
9 nonpayment of the alternative agricultural production tax
10 applicable to real property, together with an affidavit of proof
11 of service of the certificate of nonpayment upon the owner of the
12 agricultural property by certified mail, with the register of
13 deeds of the county in which the real property is situated, the
14 lien may be enforced in the same manner as provided by law for
15 the foreclosure of mortgage liens upon real property.

16 (2) On or after the December 31 immediately succeeding the
17 expiration of 60 days after the service upon the owner of a
18 certificate of nonpayment and the filing of the certificate of
19 nonpayment, if payment has not been made within the intervening
20 60 days, provided for by subsection (1), the agricultural
21 production exemption certificate is automatically terminated.

22 Sec. 12. The amount of the alternative agricultural
23 production tax in each year for agricultural property for which
24 an agricultural production exemption certificate is in effect
25 shall be determined by multiplying the agricultural use value of
26 the agricultural property by the total mills levied as ad valorem
27 taxes for that year by all taxing units within which the

1 agricultural property is located.

2 Sec. 13. Upon receipt of a request by certified mail to the
3 commission by the holder of an agricultural production exemption
4 certificate requesting revocation of the certificate, the
5 commission shall by order revoke the certificate.

6 Sec. 14. (1) The agricultural use value shall not increase
7 each year by more than the increase in the immediately preceding
8 year in the general price level or 5%, whichever is less, minus
9 any losses and plus all additions. As used in this section:

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

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

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

26 Sec. 15. (1) The assessor of each city or township in which
27 is located agricultural property with respect to which an

1 agricultural production exemption certificate is in force shall
2 annually determine, with respect to each such agricultural
3 property, an assessment of the real and personal property
4 comprising the agricultural property having the benefit of an
5 agricultural production exemption certificate that would have
6 been made under the general property tax act, 1893 PA 206,
7 MCL 211.1 to 211.157, if the certificate had not been in force.
8 A holder of an agricultural production exemption certificate
9 shall furnish to the assessor the information necessary for the
10 determination.

11 (2) The assessor, having made the determination, shall
12 annually notify the commission, the legislative body of each unit
13 of local government that levies taxes upon property in the city
14 or township in which the agricultural property is located, and
15 the holder of the agricultural property exemption certificate of
16 the determination, separately stating the determinations for real
17 property and personal property, by certified mail not later than
18 October 15 based upon valuations as of the preceding December
19 31.

20 Sec. 16. The commission may promulgate rules as it deems
21 necessary for the administration of this act pursuant to the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328.

24 Sec. 17. An agricultural production exemption certificate
25 shall be in the form the commission determines but shall
26 contain:

27 (a) A legal description of the real property of the

1 agricultural property.

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

5 Sec. 18. A party aggrieved by the issuance or refusal to
6 issue, revocation, transfer, or modification of an agricultural
7 production exemption certificate may appeal from the finding and
8 order of the commission in the manner and form and within the
9 time provided by the administrative procedures act of 1969, 1969
10 PA 306, MCL 24.201 to 24.328.

11 Sec. 19. An agricultural production exemption certificate
12 shall be transferred and assigned by the holder of the
13 certificate to a new owner or lessee of the agricultural property
14 as long as the property is maintained as agricultural property.