

HOUSE BILL No. 6144

November 8, 1990, Introduced by Rep. Hoekman and referred to the Committee on Taxation.

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. 119 of the Public Acts of 1989, 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. 119 of the Public Acts of 1989, 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 any
22 affected taxing unit.

23 (2) Except for ~~applications~~ AN APPLICATION for a specula-
24 tive building, which ~~shall be~~ IS governed by subsection (4),
25 the legislative body of the local governmental unit shall not
26 approve an application and the commission shall not grant an

1 industrial facilities exemption certificate unless the applicant
2 complies with all of the 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 shall 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. However, an owner who filed an application for an
26 industrial facilities exemption certificate with the local
27 governmental unit in August 1987 for a facility located in an

1 industrial development district created in 1986 and was denied by
2 the state tax commission may reapply for an industrial facilities
3 exemption certificate and, if approved, the facility is not
4 subject to the requirements of this subdivision. ADDITIONALLY, A
5 FACILITY, LOCATED IN AN EXISTING INDUSTRIAL DEVELOPMENT DISTRICT,
6 FOR WHICH CONSTRUCTION BEGAN IN JULY 1988 AND WAS COMPLETED IN
7 JANUARY 1989 IS NOT SUBJECT TO THE REQUIREMENT OF THIS
8 SUBDIVISION.

9 (d) The application relates to a construction, restoration,
10 or replacement program that when completed constitutes a new or
11 replacement facility within the meaning of this act and that
12 shall be situated within a plant rehabilitation district or
13 industrial development district duly established in a local gov-
14 ernmental unit eligible under this act to establish the
15 district.

16 (e) Completion of the facility is calculated to, and will at
17 the time of issuance of the certificate have the reasonable like-
18 lihood to create employment, retain employment, prevent a loss of
19 employment, or produce energy in the community in which the
20 facility is situated.

21 (f) Completion of the facility shall not have the effect of
22 transferring employment from 1 or more local governmental units
23 of the state to the local governmental unit in which the facility
24 is to be located, except that this restriction shall not prevent
25 the granting of a certificate if the legislative body of each
26 local governmental unit from which employment is to be
27 transferred consents by resolution to the granting of the

1 certificate. If the local governmental unit does not give its
2 consent, a copy of the resolution of denial showing reasons for
3 the denial shall be filed within 20 days after adoption with the
4 department of commerce.

5 (g) Completion of the facility does not constitute merely
6 the addition of machinery and equipment for the purpose of
7 increasing productive capacity but rather is primarily for the
8 purpose and will primarily have the effect of restoration,
9 replacement, or updating the technology of obsolete industrial
10 property. An increase in productive capacity, even though sig-
11 nificant, shall not constitute an impediment to the issuance of
12 an industrial facilities exemption certificate if other criteria
13 in this section and act are met. This subdivision does not apply
14 to a new facility.

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

26 (4) The legislative body of the local governmental unit
27 shall not approve an application and the commission shall not

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

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