

Act No. 444  
Public Acts of 1996  
Approved by the Governor  
December 19, 1996  
Filed with the Secretary of State  
December 19, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

Introduced by Reps. Voorhees, Kaza, Bush, Bullard, LeTarte, Jamian, Law, Middleton and Hammerstrom

# **ENROLLED HOUSE BILL No. 5194**

AN ACT to amend sections 3, 21, 21b, and 22 of Act No. 224 of the Public Acts of 1985, entitled "An act to promote economic growth within economically distressed local governmental units; to provide for the creation of enterprise zones; to provide for the creation of an enterprise zone authority; to prescribe the powers and duties of officials and agencies of the state and certain local governmental units; to provide for the establishment of citizens' councils and to prescribe their powers and duties; to authorize the levy and collection of specific taxes; and to provide qualifications for certification of and incentives for certain businesses located in enterprise zones," sections 3, 21, and 22 as amended and section 21b as added by Act No. 311 of the Public Acts of 1994, being sections 125.2103, 125.2121, 125.2121b, and 125.2122 of the Michigan Compiled Laws; and to add section 21c.

*The People of the State of Michigan enact:*

Section 1. Sections 3, 21, 21b, and 22 of Act No. 224 of the Public Acts of 1985, sections 3, 21, and 22 as amended and section 21b as added by Act No. 311 of the Public Acts of 1994, being sections 125.2103, 125.2121, 125.2121b, and 125.2122 of the Michigan Compiled Laws, are amended and section 21c is added to read as follows:

Sec. 3. As used in this act:

- (a) "Authority" means the Michigan enterprise zone authority created pursuant to section 4.
- (b) "Citizens' council" means a council created pursuant to section 9.
- (c) "Comprehensive development plan" or "plan" means a physical improvement plan for an enterprise zone.
- (d) "Enterprise zone" or "zone" means an area approved as an enterprise zone by the authority as provided in this act.
- (e) "Facility" means real or personal industrial or commercial property located in an enterprise zone, excluding property used to provide rental housing.
- (f) "General property tax act" means Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.
- (g) "Increased SEV" means the amount determined by subtracting the initial state equalized valuation of the property from the state equalized valuation of the property excluding the exemptions granted under this act.
- (h) "Initial SEV" means the state equalized valuation of the property in the year immediately preceding the year in which the exemption granted under section 16 takes effect. For property exempted under section 20b, the initial SEV is 0.
- (i) "Local governmental unit" means a city, village, or township.

(j) "New facility" means real or personal industrial or commercial property located in an enterprise zone, the construction, restoration, alteration, or renovation of which begins after the date on which the business applies with the local governmental unit for certification as a qualified business. Restoration, alteration, or renovation of existing property constitutes a new facility only if the increase in the combined true cash value of the restored, altered, or renovated real and personal property is equal to or greater than 50% of the combined true cash value of the real and personal property before restoration, alteration, or renovation as defined in the general property tax act, notwithstanding the exemptions granted by this act.

(k) "Qualified business" means either of the following, as applicable:

(i) A qualified new business or a qualified existing business located in an enterprise zone created before 1994.

(ii) A business located in an enterprise zone created after 1993.

(l) "Qualified business activity" means business activity in an enterprise zone established before 1994 of a qualified existing business attributable to a new facility or the business activity in an enterprise zone established before 1994 of a qualified new business.

(m) "Qualified existing business" means a business that is located in the area comprising an enterprise zone at the time the area is approved as an enterprise zone, that constructs a new facility, and that is certified by the authority as meeting the requirements of this act.

(n) "Qualified new business" means a business located within an enterprise zone that is not located in the area comprising the enterprise zone on the date on which the authority approves the enterprise zone, and that is certified by the authority as meeting the requirements of this act.

(o) "Tax increment finance authority" means an authority established under Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1681 of the Michigan Compiled Laws; the tax increment finance authority act, Act No. 450 of the Public Acts of 1980, being sections 125.1801 to 125.1830 of the Michigan Compiled Laws; or the local development financing act, Act No. 281 of the Public Acts of 1986, being sections 125.2151 to 125.2174 of the Michigan Compiled Laws.

Sec. 21. (1) This section applies only to an owner of property located in an enterprise zone that was created before 1994.

(2) Except as provided in section 21c, a specific tax is levied in each year upon an owner of property exempted under section 20(1) or 20b, the amount of which is determined by multiplying 50% of the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined each year by the state board of assessors under section 13 of Act No. 282 of the Public Acts of 1905, being section 207.13 of the Michigan Compiled Laws, by the state equalized valuation of that property excluding the exemptions granted by this act.

(3) Except as provided in section 21c, a specific tax is levied in each year upon an owner of property exempted under section 20a, the amount of which is determined by multiplying the total millage levied as ad valorem real and personal property taxes for that year upon other commercial, industrial, and utility property by all taxing units within which the property is located by the state equalized valuation of that property excluding the exemptions granted by this act.

(4) The tax levied under subsection (2) is an annual tax payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act are payable. The officer or officers shall disburse the tax payments received each year under subsection (2), at the same times as taxes imposed under the general property tax act are disbursed, to the local governmental unit in which the property is located.

(5) The tax levied under subsection (3) is an annual tax payable to the same officer or officers as taxes imposed under the general property tax act with 1/2 of the tax levied on July 1 and 1/2 levied on December 1. The officer or officers shall disburse the tax payments received each year under subsection (3) to the same local governmental unit, school districts, county, and authorities at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, except for the following:

(a) The amount that would otherwise be disbursed to a local school district for school operating purposes or to this state under the state education act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, shall be paid instead to the local governmental unit in which the property is located.

(b) There shall be paid to the local governmental unit in which the property is located a portion of the tax that would otherwise not be paid to the local governmental unit equal to the proportion of ad valorem property taxes levied on commercial and industrial property in the year before the exemption under section 20a first applies which proportion was captured under a tax increment financing plan.

(6) A local governmental unit that receives money under subsection (5) may enter into an agreement with any of the following:

(a) A downtown development authority or tax increment finance authority to share a portion of the money received by the local governmental unit under subsection (5) in not more than the same proportion that the authority would have received if the tax levied under subsection (3) could be captured under a tax increment financing plan.

(b) A taxing unit that receives revenue under subsection (5) to share a portion of the money received by the local governmental unit under subsection (5) not to exceed the taxing unit's net reduction in revenue pursuant to the exemption under section 20a.

(7) The owner of property subject to the tax under subsection (3) may claim a credit against the tax levied on December 1 under subsection (3) for the sum of all the following, but not more than the amount by which the tax levied for the year under subsection (3) exceeds the amount determined by multiplying the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined each year by the state board of assessors under section 13 of Act No. 282 of the Public Acts of 1905 by the state equalized valuation of that property excluding the exemptions granted by this act:

(a) The amount spent in the year to restore, alter, renovate, or improve real property located in the enterprise zone.

(b) Fifteen percent of wages paid during the year to residents of the enterprise zone who were hired by the owner after May 24, 1990 and who were employed at some time during the 6 months before being hired.

(c) Twenty-five percent of wages paid during the year to residents of the enterprise zone who were hired by the owner after May 24, 1990 and who were not employed at any time during the 6 months before being hired.

(d) Cash and in-kind contributions made by that owner during the year to and accepted by a local taxing unit located in the enterprise zone.

(8) The amount of the tax levied upon real property under subsection (2) or (3), until paid, is a lien upon the real property upon which the tax is levied. Only after the officer files a certificate of nonpayment of the tax, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the property by certified mail, with the register of deeds of the county in which the property is situated, may proceedings be had upon the lien in the same manner as provided by law for the foreclosure in the circuit court of mortgage liens upon real property.

(9) The owner of property who has failed to pay a tax levied under this section is not eligible to claim the credit under subsection (7).

(10) From the amount disbursed to the local governmental unit pursuant to subsection (5)(a) and (b), the local governmental unit shall disburse to the county in which that local governmental unit is located an amount equal to the product of the state equalized value of all property exempted under sections 20 and 20a(1) and the voter approved special millage rate levied by the county for emergency dispatch services, senior citizen centers, and substance abuse rehabilitation services. The county shall use the amount disbursed under this subsection only to fund emergency dispatch services, senior citizen centers, and substance abuse rehabilitation services.

Sec. 21b. (1) This section applies only to an owner of property located in an enterprise zone that was created after 1993.

(2) Except as provided in section 21c, a specific tax is levied in each year upon an owner of property exempted under section 20(2) or 20b, the amount of which is the sum of the following:

(a) The product of 50% of the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed in that local governmental unit, excluding ad valorem taxes levied under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, multiplied by the increased state equalized valuation of that property excluding the exemptions granted by this act.

(b) The product of the millage levied under Act No. 331 of the Public Acts of 1993, multiplied by the increased state equalized valuation of that property, excluding the exemptions granted by this act.

(c) The product of the total millage levied as ad valorem real and personal property taxes for that year by all local taxing units within which the property is located multiplied by the initial state equalized valuation of that property excluding the exemptions granted by this act.

(3) The tax levied under subsection (2) is an annual tax payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act are payable.

(4) The officer or officers shall disburse the portion of the tax payments received each year calculated under subsection (2)(a), at the same times as taxes imposed under the general property tax act are disbursed, to the local governmental unit in which the property is located to be used solely to make public improvements within the enterprise zone or to repay obligations of which the proceeds are used to make public improvements within the enterprise zone.

(5) The officer or officers shall disburse the portion of the tax payments received each year calculated under subsection (2)(b) and (c) to the same governmental unit, school districts, county, and authorities at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act. However, if the property is located in a tax increment financing district, the officer or officers shall pay to the tax increment financing authority a portion of the taxes paid equal to the proportion of ad valorem property taxes levied on commercial and industrial property in the enterprise zone in the year before the exemption under section 20(2) first applies which proportion was captured under a tax increment financing plan.

(6) The amount of the tax levied upon real property under subsection (2), until paid, is a lien upon the real property upon which the tax is levied. Only after the officer files a certificate of nonpayment of the tax, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the property by certified mail, with the register of deeds of the county in which the property is situated, may proceedings be had upon the lien in the same manner as provided by law for the foreclosure in the circuit court of mortgage liens upon real property.

(7) A local governmental unit, in its action establishing the boundaries of its enterprise zones, may waive the portion of the tax calculated under subsection (2)(a) and (b) on the real property that would qualify as a replacement facility under section 2(3) of Act No. 198 of the Public Acts of 1974, being section 207.552 of the Michigan Compiled Laws.

(8) The owner of property who has failed to pay a tax levied under this section is not eligible for the exemption under section 20(2) for the succeeding tax years.

(9) If a local or intermediate school district receives state aid under section 20, 56, 62, or 81 of the state school aid act of 1979, Act No. 94 of the Public Acts of 1979, being sections 388.1620, 388.1656, 388.1662, and 388.1681 of the Michigan Compiled Laws, of the amount that would otherwise be disbursed under subsection (5) to a local or intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963. If and for the period that the state school aid act of 1979, Act No. 94 of the Public Acts of 1979, being sections 388.1601 to 388.1772 of the Michigan Compiled Laws, is amended or its successor act is enacted or amended to include a provision that provides for adjustments in state school aid to account for the receipt of revenues provided under this act in place of exempted ad valorem property tax, revenues required to be remitted or returned to the state treasury to the credit of the state school aid fund shall be distributed instead to the local school districts. If the sum of any industrial facility tax levied under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.572 of the Michigan Compiled Laws, the commercial facilities tax levied under the commercial redevelopment act, Act No. 255 of the Public Acts of 1978, being sections 207.651 to 207.668 of the Michigan Compiled Laws, the neighborhood enterprise zone tax levied under the neighborhood enterprise zone act, Act No. 147 of the Public Acts of 1992, being sections 207.771 to 207.787 of the Michigan Compiled Laws, and the tax levied under this act paid to the state treasury to the credit of the state school aid fund that would otherwise be disbursed to the local or intermediate school district exceeds the amount received by the local or intermediate school district under section 20, 56, 62, or 81 of Act No. 94 of the Public Acts of 1979, the department of treasury shall allocate to each eligible local or intermediate school district an amount equal to the difference between the sum of the industrial facility tax, the commercial facilities tax, the neighborhood enterprise zone tax, and the tax levied under this act paid to the state treasury to the credit of the state school aid fund and the amount the local or intermediate school district received under section 20, 56, 62, or 81 of Act No. 94 of the Public Acts of 1979.

Sec. 21c. Property exempted under sections 20(1) and (2), 20a, and 20b that is located in a renaissance zone under the Michigan renaissance zone act, Act No. 376 of the Public Acts of 1996, being sections 125.2681 to 125.2696 of the Michigan Compiled Laws, is exempt from the specific taxes levied under this act to the extent and for the duration provided pursuant to Act No. 376 of the Public Acts of 1996, except for that portion of the specific tax levied under this act attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.7ff of the Michigan Compiled Laws. The specific tax calculated under this section shall be disbursed proportionately to the local taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of Act No. 206 of the Public Acts of 1893.

Sec. 22. (1) If the tax applicable to personal or real property levied under section 21 or 21b, as applicable, is not paid within the time permitted by law for payment without penalty of taxes imposed under the general property tax act, the officer to whom the tax is first payable may in his or her own name, or in the name of the city, village, township, or county of which he or she is an officer, seize and sell personal property of the owner who has neglected or refused to pay the tax, to an amount sufficient to pay the tax, the expenses of sale, and interest on the tax at the rate of 9% per annum from the date the tax was first payable; or the officer, in his or her own name or in the name of the city, village, township, or county of which he or she is an officer, may institute a civil action against the owner in the circuit court for the county in which the facility is located or in the circuit court for the county in which the owner resides or has a principal place of business, and in that civil action recover the amount of the tax and interest on the tax at the rate of 9% per annum from the date the tax was first payable plus the costs of collecting the tax and interest, including reasonable attorney fees.

(2) The officer may proceed to make a jeopardy assessment, in the manner and under the circumstances provided by Act No. 55 of the Public Acts of 1956, being sections 211.691 to 211.697 of the Michigan Compiled Laws, as an additional means of collecting the amount of the tax.

(3) If a specific tax levied under this act is not paid within the time permitted by law for payment, without penalty, of taxes imposed under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, the specific tax may be collected in the same manner as delinquent taxes are collected under the general property tax act.

(4) The officer may pursue 1 or more of the remedies provided in this section until the officer receives the amount of the tax, interest on the tax, and costs allowed by this act or by law governing the proceedings of civil actions in the circuit court. The amount of the tax and interest on the tax shall be disbursed by the officer in the same manner as the tax levied under section 21 or 21b, as applicable, is disbursed when first payable.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.