

SENATE BILL No. 218

February 20, 2007, Introduced by Senators BASHAM, JACOBS, HUNTER, CLARK-COLEMAN and CLARKE and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1974 PA 198, 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 impose and provide for the disposition of an administrative fee; 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,"

by amending section 9 (MCL 207.559), as amended by 2006 PA 436.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) The legislative body of the local governmental
2 unit, in its resolution approving an application, shall set forth a
3 finding and determination that the granting of the industrial

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

20 (2) Except for an application for a speculative building,
21 which is governed by subsection (4), the legislative body of the
22 local governmental unit shall not approve an application and the
23 commission shall not grant an industrial facilities exemption
24 certificate unless the applicant complies with all of the following
25 requirements:

26 (a) The commencement of the restoration, replacement, or
27 construction of the facility occurred not earlier than 12 months

1 before the filing of the application for the industrial facilities
2 exemption certificate. If the application is not filed within the
3 12-month period, the application may be filed within the succeeding
4 12-month period and the industrial facilities exemption certificate
5 shall in this case expire 1 year earlier than it would have expired
6 if the application had been timely filed. This subdivision does not
7 apply for applications filed with the local governmental unit after
8 December 31, 1983.

9 (b) For applications made after December 31, 1983, the
10 proposed facility shall be located within a plant rehabilitation
11 district or industrial development district that was duly
12 established in a local governmental unit eligible under this act to
13 establish a district and that was established upon a request filed
14 or by the local governmental unit's own initiative taken before the
15 commencement of the restoration, replacement, or construction of
16 the facility.

17 (c) For applications made after December 31, 1983, the
18 commencement of the restoration, replacement, or construction of
19 the facility occurred not earlier than 6 months before the filing
20 of the application for the industrial facilities exemption
21 certificate.

22 (d) The application relates to a construction, restoration, or
23 replacement program that when completed constitutes a new or
24 replacement facility within the meaning of this act and that shall
25 be situated within a plant rehabilitation district or industrial
26 development district duly established in a local governmental unit
27 eligible under this act to establish the district.

1 (e) Completion of the facility is calculated to, and will at
2 the time of issuance of the certificate have the reasonable
3 likelihood to create employment, retain employment, prevent a loss
4 of employment, or produce energy in the community in which the
5 facility is situated.

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

15 (g) The provisions of subdivision (c) do not apply to a new
16 facility located in an existing industrial development district
17 owned by a person who filed an application for an industrial
18 facilities exemption certificate in April of 1992 if the
19 application was approved by the local governing body and was denied
20 by the state tax commission in April of 1993.

21 (h) The provisions of subdivisions (b) and (c) and section
22 4(3) do not apply to 1 or more of the following:

23 (i) A facility located in an industrial development district
24 owned by a person who filed an application for an industrial
25 facilities exemption certificate in October 1995 for construction
26 that was commenced in July 1992 in a district that was established
27 by the legislative body of the local governmental unit in July

1 1994. An industrial facilities exemption certificate described in
2 this subparagraph shall expire as provided in section 16(3).

3 (ii) A facility located in an industrial development district
4 that was established in January 1994 and was owned by a person who
5 filed an application for an industrial facilities exemption
6 certificate in February 1994 if the personal property and real
7 property portions of the application were approved by the
8 legislative body of the local governmental unit and the personal
9 property portion of the application was approved by the state tax
10 commission in December 1994 and the real property portion of the
11 application was denied by the state tax commission in December
12 1994. An industrial facilities exemption certificate described in
13 this subparagraph shall expire as provided in section 16(3).

14 (iii) A facility located in an industrial development district
15 that was established in December 1995 and was owned by a person who
16 filed an application for an industrial facilities exemptions
17 certificate in November or December 1995 for construction that was
18 commenced in September 1995.

19 (iv) A facility located in an industrial development district
20 owned by a person who filed an application for an industrial
21 facilities exemption certificate in July 2001 for construction that
22 was commenced in February 2001 in a district that was established
23 by the legislative body of the local governmental unit in September
24 2001. An industrial facilities exemption certificate described in
25 this subparagraph shall expire as provided in section 16. The
26 facility described in this subparagraph shall be taxed under this
27 act as if it was granted an industrial facilities exemption

1 certificate in October 2001, and a corrected tax bill shall be
2 issued by the local tax collecting unit if the local tax collecting
3 unit has possession of the tax roll or by the county treasurer if
4 the county has possession of the tax roll. If granting the
5 industrial facilities exemption certificate under this subparagraph
6 results in an overpayment of the tax, a rebate, including any
7 interest and penalties paid, shall be made to the taxpayer by the
8 local tax collecting unit if the local tax collecting unit has
9 possession of the tax roll or by the county treasurer if the county
10 has possession of the tax roll within 30 days of the date the
11 exemption is granted. The rebate shall be without interest.

12 (v) A facility located in an industrial development district
13 owned by a person who filed an application for an industrial
14 facilities exemption certificate in December 2005 for construction
15 that was commenced in September 2005 in a district that was
16 established by the legislative body of the local governmental unit
17 in December 2005. An industrial facilities exemption certificate
18 described in this subparagraph shall expire as provided in section
19 16.

20 **(vi) A FACILITY LOCATED IN AN INDUSTRIAL DEVELOPMENT DISTRICT**
21 **THAT OTHERWISE MEETS THE CRITERIA OF THIS ACT THAT HAS RECEIVED**
22 **WRITTEN APPROVAL FROM THE BOARD OF THE MICHIGAN STRATEGIC FUND AND**
23 **THE STATE TAX COMMISSION.**

24 (i) The provisions of subdivision (c) do not apply to any of
25 the following:

26 (i) A new facility located in an existing industrial
27 development district owned by a person who filed an application for

1 an industrial facilities exemption certificate in October 1993 if
2 the application was approved by the legislative body of the local
3 governmental unit and the real property portion of the application
4 was denied by the state tax commission in December 1993.

5 (ii) A new facility located in an existing industrial
6 development district owned by a person who filed an application for
7 an industrial facilities exemption certificate in September 1993 if
8 the personal property portion of the application was approved by
9 the legislative body of the local governmental unit and the real
10 property portion of the application was denied by the legislative
11 body of the local governmental unit in October 1993 and
12 subsequently approved by the legislative body of the local
13 governmental unit in September 1994.

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

20 (iv) A facility located in an existing industrial development
21 district occupied by a person who filed an application for an
22 industrial facilities exemption certificate in June of 1995 if the
23 application was approved by the legislative body of the local
24 governmental unit in October of 1995 for construction that was
25 commenced in November or December of 1994.

26 (v) A facility located in an existing industrial development
27 district owned by a person who filed an application for an

1 industrial facilities exemption certificate in June of 1995 if the
2 application was approved by the legislative body of the local
3 governmental unit in July of 1995 and the personal property portion
4 of the application was approved by the state tax commission in
5 November of 1995.

6 (j) If the facility is locating in a plant rehabilitation
7 district or an industrial development district from another
8 location in this state, the owner of the facility is not delinquent
9 in any of the taxes described in section 10(1)(a) of the Michigan
10 renaissance zone act, 1996 PA 376, MCL 125.2690, or substantially
11 delinquent in any of the taxes described in and as provided under
12 section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376,
13 MCL 125.2690.

14 (3) If the replacement facility when completed will not be
15 located on the same premises or contiguous premises as the obsolete
16 industrial property, then the applicant shall make provision for
17 the obsolete industrial property by demolition, sale, or transfer
18 to another person with the effect that the obsolete industrial
19 property shall within a reasonable time again be subject to
20 assessment and taxation under the general property tax act, 1893 PA
21 206, MCL 211.1 to 211.157, or be used in a manner consistent with
22 the general purposes of this act, subject to approval of the
23 commission.

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

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

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

17 (6) Notwithstanding any other provision of this act, if on
18 December 29, 1986 a local governmental unit passed a resolution
19 approving an exemption certificate for 10 years for real and
20 personal property but the commission did not receive the
21 application until 1992 and the application was not made complete
22 until 1995, then the commission shall issue, for that property, an
23 industrial facilities exemption certificate that begins December
24 30, 1987 and ends December 30, 1997. The facility described in this
25 subsection shall be taxed under this act as if it was granted an
26 industrial facilities exemption certificate on December 30, 1987.

27 (7) Notwithstanding any other provision of this act, if a

1 local governmental unit passed a resolution approving an industrial
2 facilities exemption certificate for a new facility on July 8, 1991
3 but rescinded that resolution and passed a resolution approving an
4 industrial facilities exemption certificate for that same facility
5 as a replacement facility on October 21, 1996, the commission shall
6 issue for that property an industrial facilities exemption
7 certificate that begins December 30, 1991 and ends December 2003.
8 The replacement facility described in this subsection shall be
9 taxed under this act as if it was granted an industrial facilities
10 exemption certificate on December 30, 1991.

11 (8) Property owned or operated by a casino is not industrial
12 property or otherwise eligible for an abatement or reduction of ad
13 valorem property taxes under this act. As used in this subsection,
14 "casino" means a casino or a parking lot, hotel, motel, convention
15 and trade center, or retail store owned or operated by a casino, an
16 affiliate, or an affiliated company, regulated by this state
17 pursuant to the Michigan gaming control and revenue act, the
18 Initiated Law of 1996, MCL 432.201 to 432.226.

19 (9) Notwithstanding section 16a and any other provision of
20 this act, if a local governmental unit passed a resolution
21 approving an industrial facilities exemption certificate for a new
22 facility on October 28, 1996 for a certificate that expired in
23 December 2003 and the local governmental unit passes a resolution
24 approving the extension of the certificate after December 2003 and
25 before March 1, 2006, the commission shall issue for that property
26 an industrial facilities exemption certificate that begins on
27 December 30, 2005 and ends December 30, 2010 as long as the

1 property continues to qualify under this act.