

SENATE BILL No. 1148

May 29, 2012, Introduced by Senator CASWELL and referred to the Committee on Finance.

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 2008 PA 516.

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
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

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

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

23 (a) The commencement of the restoration, replacement, or
24 construction of the facility occurred not earlier than 12 months
25 before the filing of the application for the industrial facilities
26 exemption certificate. If the application is not filed within the
27 12-month period, the application may be filed within the succeeding

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

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

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

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

25 (e) Completion of the facility is calculated to, and will at
26 the time of issuance of the certificate have the reasonable
27 likelihood to create employment, retain employment, prevent a loss

1 of employment, or produce energy in the community in which the
2 facility is situated.

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

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

18 (h) The provisions of subdivisions (b) and (c) and section
19 4(3) do not apply to 1 or more of the following:

20 (i) A facility located in an industrial development district
21 owned by a person who filed an application for an industrial
22 facilities exemption certificate in October 1995 for construction
23 that was commenced in July 1992 in a district that was established
24 by the legislative body of the local governmental unit in July
25 1994. An industrial facilities exemption certificate described in
26 this subparagraph shall expire as provided in section 16(3).

27 (ii) A facility located in an industrial development district

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

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

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

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

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

17 (vi) A facility located in an existing industrial development
18 district owned by a person who filed or amended an application for
19 an industrial facilities exemption certificate for real property in
20 July 2006 if the application was approved by the legislative body
21 of the local governmental unit in September 2006 but not submitted
22 to the state tax commission until September 2006.

23 (vii) A new facility located in an existing industrial
24 development district owned by a person who filed or amended an
25 application for an industrial facilities exemption certificate for
26 personal property in June 2006 if the application was approved by
27 the legislative body of the local governmental unit in August 2006

1 but not submitted to the state tax commission until 2007. The
2 effective date of the certificate shall be December 31, 2006.

3 (viii) A new facility located in an industrial development
4 district that was established by the legislative body of the local
5 governmental unit in September of 2007 for construction that was
6 commenced in March 2007 and for which an application for an
7 industrial facilities exemption certificate was filed in September
8 of 2007.

9 (ix) A facility located in an industrial development district
10 that was established by the legislative body of the local
11 governmental unit in August 2007 and was owned by a person who
12 filed an application for an industrial facilities exemption
13 certificate in June 2007 for equipment that was purchased in
14 January 2007.

15 (x) A facility located in an industrial development district
16 that otherwise meets the criteria of this act that has received
17 written approval from the chairperson of the Michigan economic
18 growth authority.

19 (xi) A new facility located in an industrial development
20 district that was established by the legislative body of the local
21 governmental unit in August of 2008 for construction that was
22 commenced in December 2005 and certificate of occupancy issued in
23 September 2006 for which an application for an industrial
24 facilities exemption certificate was filed in August of 2008.

25 (xii) A facility located in an industrial development district
26 owned by a person who filed an application for a certificate for
27 real and personal property in April 2005 if the application was

1 approved by the legislative body of the local governmental unit in
2 July 2005 for construction that was commenced in July 2004.

3 (xiii) A facility located in an industrial development district
4 that was established by the legislative body of the local
5 governmental unit in December 2007 for construction that was
6 commenced in September 2007 and a certificate of occupancy issued
7 in September 2008 for which an application for an industrial
8 facilities exemption certificate was approved in May of 2008.

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

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

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

26 (iii) 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 August 1993 if the
2 application was approved by the local governmental unit in
3 September 1993 and the application was denied by the state tax
4 commission in December 1993.

5 (iv) A facility located in an existing industrial development
6 district occupied by a person who filed an application for an
7 industrial facilities exemption certificate in June of 1995 if the
8 application was approved by the legislative body of the local
9 governmental unit in October of 1995 for construction that was
10 commenced in November or December of 1994.

11 (v) A facility located in an existing industrial development
12 district owned by a person who filed an application for an
13 industrial facilities exemption certificate in June of 1995 if the
14 application was approved by the legislative body of the local
15 governmental unit in July of 1995 and the personal property portion
16 of the application was approved by the state tax commission in
17 November of 1995.

18 (j) If the facility is locating in a plant rehabilitation
19 district or an industrial development district from another
20 location in this state, the owner of the facility is not delinquent
21 in any of the taxes described in section 10(1)(a) of the Michigan
22 renaissance zone act, 1996 PA 376, MCL 125.2690, or substantially
23 delinquent in any of the taxes described in and as provided under
24 section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376,
25 MCL 125.2690.

26 (3) If the replacement facility when completed will not be
27 located on the same premises or contiguous premises as the obsolete

1 industrial property, then the applicant shall make provision for
2 the obsolete industrial property by demolition, sale, or transfer
3 to another person with the effect that the obsolete industrial
4 property shall within a reasonable time again be subject to
5 assessment and taxation under the general property tax act, 1893 PA
6 206, MCL 211.1 to ~~211.157~~, **211.155**, or be used in a manner
7 consistent with the general purposes of this act, subject to
8 approval of the commission.

9 (4) The legislative body of the local governmental unit shall
10 not approve an application and the commission shall not grant an
11 industrial facilities exemption certificate that applies to a
12 speculative building unless the speculative building is or is to be
13 located in a plant rehabilitation district or industrial
14 development district duly established by a local governmental unit
15 eligible under this act to establish a district; the speculative
16 building was constructed less than 9 years before the filing of the
17 application for the industrial facilities exemption certificate;
18 the speculative building has not been occupied since completion of
19 construction; and the speculative building otherwise qualifies
20 under subsection (2)(e) for an industrial facilities exemption
21 certificate. An industrial facilities exemption certificate granted
22 under this subsection shall expire as provided in section 16(3).

23 (5) Not later than September 1, 1989, the commission shall
24 provide to all local assessing units the name, address, and
25 telephone number of the person on the commission staff responsible
26 for providing procedural information concerning this act. After
27 October 1, 1989, a local unit of government shall notify each

1 prospective applicant of this information in writing.

2 (6) Notwithstanding any other provision of this act, if on
3 December 29, 1986 a local governmental unit passed a resolution
4 approving an exemption certificate for 10 years for real and
5 personal property but the commission did not receive the
6 application until 1992 and the application was not made complete
7 until 1995, then the commission shall issue, for that property, an
8 industrial facilities exemption certificate that begins December
9 30, 1987 and ends December 30, 1997. The facility described in this
10 subsection shall be taxed under this act as if it was granted an
11 industrial facilities exemption certificate on December 30, 1987.

12 (7) Notwithstanding any other provision of this act, if a
13 local governmental unit passed a resolution approving an industrial
14 facilities exemption certificate for a new facility on July 8, 1991
15 but rescinded that resolution and passed a resolution approving an
16 industrial facilities exemption certificate for that same facility
17 as a replacement facility on October 21, 1996, the commission shall
18 issue for that property an industrial facilities exemption
19 certificate that begins December 30, 1991 and ends December 2003.
20 The replacement facility described in this subsection shall be
21 taxed under this act as if it was granted an industrial facilities
22 exemption certificate on December 30, 1991.

23 (8) Property owned or operated by a casino is not industrial
24 property or otherwise eligible for an abatement or reduction of ad
25 valorem property taxes under this act. As used in this subsection,
26 "casino" means a casino or a parking lot, hotel, motel, convention
27 and trade center, or retail store owned or operated by a casino, an

1 affiliate, or an affiliated company, regulated by this state
2 pursuant to the Michigan gaming control and revenue act, 1996 IL 1,
3 MCL 432.201 to 432.226.

4 (9) Notwithstanding section 16a and any other provision of
5 this act, if a local governmental unit passed a resolution
6 approving an industrial facilities exemption certificate for a new
7 facility on October 28, 1996 for a certificate that expired in
8 December 2003 and the local governmental unit passes a resolution
9 approving the extension of the certificate after December 2003 and
10 before March 1, 2006, the commission shall issue for that property
11 an industrial facilities exemption certificate that begins on
12 December 30, 2005 and ends December 30, 2010 as long as the
13 property continues to qualify under this act.

14 (10) Notwithstanding any other provision of this act, if the
15 commission issued an industrial facilities exemption certificate
16 for a new facility on December 8, 1998 but revoked that industrial
17 facilities exemption certificate for that same facility effective
18 December 30, 2006 and that new facility is purchased by a buyer on
19 or before November 1, 2007, the commission shall issue for that
20 property an industrial facilities exemption certificate that begins
21 December 31, 1998 and ends December 30, 2010 and shall transfer
22 that industrial facilities exemption certificate to the buyer. The
23 new facility described in this subsection shall be taxed under this
24 act as if it was granted an industrial facilities exemption
25 certificate effective on December 31, 1998.

26 (11) Notwithstanding any other provision of this act, if the
27 commission issued industrial facilities exemption certificates for

1 new facilities on October 30, 2002, September 9, 2003, and November
2 30, 2005 but revoked the industrial facilities exemption
3 certificates for the same facilities effective December 30, 2007
4 and the new facilities continue to qualify under this act, the
5 commission shall issue for the properties industrial facilities
6 exemption certificates which end respectively on December 30, 2008,
7 December 30, 2009, and December 30, 2011.

8 (12) Notwithstanding any other provision of this act, if in
9 August 2008 a local governmental unit passed a resolution approving
10 an exemption certificate for 12 years for real and personal
11 property but the commission did not receive the application until
12 2008, then the commission shall issue, for that property, an
13 industrial facilities exemption certificate that begins December
14 31, 2006 and ends December 30, 2018. The facility described in this
15 subsection shall be taxed under this act as if it had been granted
16 an industrial facilities exemption certificate on December 31,
17 2006.

18 (13) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF IN
19 SEPTEMBER 2011 OR OCTOBER 2011 A LOCAL GOVERNMENTAL UNIT PASSED A
20 RESOLUTION APPROVING AN EXEMPTION CERTIFICATE FOR 12 YEARS FOR
21 PERSONAL PROPERTY BUT THE COMMISSION DID NOT RECEIVE THE
22 APPLICATION UNTIL NOVEMBER 2011 AND THE COMMISSION APPROVED THE
23 APPLICATIONS IN MAY 2012, THEN THE COMMISSION SHALL ISSUE, FOR THAT
24 PROPERTY, AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE THAT
25 BEGINS DECEMBER 31, 2011 AND ENDS DECEMBER 30, 2024. THE FACILITY
26 DESCRIBED IN THIS SUBSECTION SHALL BE TAXED UNDER THIS ACT AS IF IT
27 HAD BEEN GRANTED AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE ON

1 DECEMBER 31, 2011.