

SENATE BILL No. 266

March 16, 2011, Introduced by Senator KAHN and referred to the Committee on Economic Development.

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 sections 11, 14, 15, 16, and 16a (MCL 207.561, 207.564, 207.565, 207.566, and 207.566a), section 11 as amended by 2007 PA 195, section 14 as amended by 2008 PA 457, section 15 as amended by 2010 PA 122, section 16 as amended by 1982 PA 417, and section 16a as amended by 2008 PA 306.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 11. (1) Except as provided in subsections (6) and (7),

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1 there is levied upon every owner of a speculative building, a new
2 facility, **AN EXISTING FACILITY**, or a replacement facility to which
3 an industrial facilities exemption certificate is issued a specific
4 tax to be known as the industrial facility tax and an
5 administrative fee calculated in the same manner and at the same
6 rate that the local tax collecting unit imposes on ad valorem taxes
7 collected under the general property tax act, 1893 PA 206, MCL
8 211.1 to 211.155.

9 (2) The industrial facility tax and administrative fee are to
10 be paid annually, at the same times, in the same installments, and
11 to the same officer or officers as taxes and administrative fees,
12 if any, imposed under the general property tax act, 1893 PA 206,
13 MCL 211.1 to 211.155, are payable. Except as otherwise provided in
14 this section, the officer or officers shall disburse the industrial
15 facility tax payments received each year to and among the state,
16 cities, townships, villages, school districts, counties, and
17 authorities, at the same times and in the same proportions as
18 required by law for the disbursement of taxes collected under the
19 general property tax act, 1893 PA 206, MCL 211.1 to 211.155. To
20 determine the proportion for the disbursement of taxes under this
21 subsection and for attribution of taxes under subsection (5) for
22 taxes collected under industrial facilities exemption certificates
23 issued before January 1, 1994, the number of mills levied for local
24 school district operating purposes to be used in the calculation
25 shall equal the number of mills for local school district operating
26 purposes levied in 1993 minus the number of mills levied under the
27 state education tax act, 1993 PA 331, MCL 211.901 to 211.906, for

1 the year for which the disbursement is calculated.

2 (3) Except as provided by subsections (4) and (5), for an
3 intermediate school district receiving state aid under section 56,
4 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL
5 388.1656, 388.1662, and 388.1681, of the amount that would
6 otherwise be disbursed to or retained by the intermediate school
7 district, all or a portion, to be determined on the basis of the
8 tax rates being utilized to compute the amount of the state school
9 aid, shall be paid instead to the state treasury to the credit of
10 the state school aid fund established by section 11 of article IX
11 of the state constitution of 1963. If the sum of any commercial
12 facilities taxes prescribed by the commercial redevelopment act,
13 1978 PA 255, MCL 207.651 to 207.668, and the industrial facility
14 taxes paid to the state treasury to the credit of the state school
15 aid fund that would otherwise be disbursed to the local or
16 intermediate school district, under section 12 of the commercial
17 redevelopment act, 1978 PA 255, MCL 207.662, and this section,
18 exceeds the amount received by the local or intermediate school
19 district under sections 56, 62, and 81 of the state school aid act
20 of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, the
21 department of treasury shall allocate to each eligible local or
22 intermediate school district an amount equal to the difference
23 between the sum of the commercial facilities taxes and the
24 industrial facility taxes paid to the state treasury to the credit
25 of the state school aid fund and the amount the local or
26 intermediate school district received under sections 56, 62, and 81
27 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656,

1 388.1662, and 388.1681. This subsection does not apply to taxes
2 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) For industrial facilities taxes levied before 1994, a
10 local or intermediate school district shall receive or retain its
11 industrial facility tax payment that is levied in any year and
12 becomes a lien before December 1 of the year if the district files
13 a statement with the state treasurer not later than June 30 of the
14 year certifying that the district does not expect to receive state
15 school aid payments under section 56, 62, or 81 of the state school
16 aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681,
17 in the state fiscal year commencing in the year this statement is
18 filed and if the district did not receive state school aid payments
19 under section 56, 62, or 81 of the state school aid act of 1979,
20 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, for the state
21 fiscal year concluding in the year the statement required by this
22 subsection is filed. However, if a local or intermediate school
23 district receives or retains its summer industrial facility tax
24 payment under this subsection and becomes entitled to receive state
25 school aid payments under section 56, 62, or 81 of the state school
26 aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681,
27 in the state fiscal year commencing in the year in which it filed

1 the statement required by this subsection, the district immediately
2 shall pay to the state treasury to the credit of the state school
3 aid fund an amount of the summer industrial facility tax payments
4 that would have been paid to the state treasury to the credit of
5 the state school aid fund under subsection (3) had not this
6 subsection allowed the district to receive or retain the summer
7 industrial facility tax payment.

8 (5) For industrial facilities taxes levied after 1993, the
9 amount to be disbursed to a local school district, except for that
10 amount of tax attributable to mills levied under section 1211(2) or
11 1211c of the revised school code, 1976 PA 451, MCL 380.1211 and
12 380.1211c, and mills that are not included as mills levied for
13 school operating purposes under section 1211 of the revised school
14 code, 1976 PA 451, MCL 380.1211, shall be paid to the state
15 treasury and credited to the state school aid fund established by
16 section 11 of article IX of the state constitution of 1963.

17 (6) A speculative building, a new facility, **AN EXISTING**
18 **FACILITY**, or a replacement facility located in a renaissance zone
19 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681
20 to 125.2696, is exempt from the industrial facility tax levied
21 under this act to the extent and for the duration provided pursuant
22 to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
23 125.2696, except for that portion of the industrial facility tax
24 attributable to a special assessment or a tax described in section
25 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.
26 The industrial facility tax calculated under this subsection shall
27 be disbursed proportionately to the local taxing unit or units that

1 levied the special assessment or the tax described in section
2 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

3 (7) Upon application for an exemption under this subsection by
4 a qualified start-up business, the governing body of a local tax
5 collecting unit may adopt a resolution to exempt a speculative
6 building, a new facility, or a replacement facility of a qualified
7 start-up business from the collection of the industrial facility
8 tax levied under this act in the same manner and under the same
9 terms and conditions as provided for the exemption in section 7hh
10 of the general property tax act, 1893 PA 206, MCL 211.7hh. The
11 clerk of the local tax collecting unit shall notify in writing the
12 assessor of the local tax collecting unit and the legislative body
13 of each taxing unit that levies ad valorem property taxes in the
14 local tax collecting unit. Before acting on the resolution, the
15 governing body of the local tax collecting unit shall afford the
16 assessor and a representative of the affected taxing units an
17 opportunity for a hearing. If a resolution authorizing the
18 exemption is adopted in the same manner as provided in section 7hh
19 of the general property tax act, 1893 PA 206, MCL 211.7hh, a
20 speculative building, a new facility, or a replacement facility
21 owned or operated by a qualified start-up business is exempt from
22 the industrial facility tax levied under this act, except for that
23 portion of the industrial facility tax attributable to a special
24 assessment or a tax described in section 7ff(2) of the general
25 property tax act, 1893 PA 206, MCL 211.7ff, for the year in which
26 the resolution is adopted. A qualified start-up business is not
27 eligible for an exemption under this subsection for more than 5

1 years. A qualified start-up business may receive the exemption
2 under this subsection in nonconsecutive years. The industrial
3 facility tax calculated under this subsection shall be disbursed
4 proportionately to the taxing unit or units that levied the special
5 assessment or the tax described in section 7ff(2) of the general
6 property tax act, 1893 PA 206, MCL 211.7ff. As used in this
7 subsection, "qualified start-up business" means that term as
8 defined in section 31a of ~~the single business tax act~~, **FORMER** 1975
9 PA 228, ~~MCL 208.31a~~, or in section 415 of the Michigan business tax
10 act, 2007 PA 36, MCL 208.1415.

11 Sec. 14. (1) The amount of the industrial facility tax, in
12 each year for a replacement facility, shall be determined by
13 multiplying the total mills levied as ad valorem taxes for that
14 year by all taxing units within which the facility is situated by
15 the taxable value of the real and personal property of the obsolete
16 industrial property for the tax year immediately preceding the
17 effective date of the industrial facilities exemption certificate
18 after deducting the taxable value of the land and of the inventory
19 as specified in section 19.

20 (2) The amount of the industrial facility tax, in each year
21 for a new facility or a speculative building for which an
22 industrial facilities exemption certificate became effective before
23 January 1, 1994, shall be determined by multiplying the taxable
24 value of the facility excluding the land and the inventory personal
25 property by the sum of 1/2 of the total mills levied as ad valorem
26 taxes for that year by all taxing units within which the facility
27 is located other than mills levied for school operating purposes by

1 a local school district within which the facility is located or
2 mills levied under the state education tax act, 1993 PA 331, MCL
3 211.901 to 211.906, plus 1/2 of the number of mills levied for
4 local school district operating purposes in 1993.

5 (3) Except as provided in subsection (4), the amount of the
6 industrial facility tax in each year for a new facility, **AN**
7 **EXISTING FACILITY**, or a speculative building for which an
8 industrial facilities exemption certificate becomes effective after
9 December 31, 1993, shall be determined by multiplying the taxable
10 value of the facility excluding the land and the inventory personal
11 property by the sum of 1/2 of the total mills levied as ad valorem
12 taxes for that year by all taxing units within which the facility
13 is located other than mills levied under the state education tax
14 act, 1993 PA 331, MCL 211.901 to 211.906, plus, subject to section
15 14a, the number of mills levied under the state education tax act,
16 1993 PA 331, MCL 211.901 to 211.906.

17 (4) For taxes levied after December 31, 2007, for the personal
18 property tax component of an industrial facilities exemption
19 certificate for a new facility or a speculative building that is
20 sited on real property classified as industrial real property under
21 section 34c of the general property tax act, 1893 PA 206, MCL
22 211.34c, the amount of the industrial facility tax in each year for
23 a new facility or a speculative building shall be determined by
24 multiplying the taxable value of the facility excluding the land
25 and the inventory personal property by the sum of 1/2 of the total
26 mills levied as ad valorem taxes for that year by all taxing units
27 within which the facility is located other than mills levied under

1 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
2 and the number of mills from which the property is exempt under
3 section 1211(1) of the revised school code, 1976 PA 451, MCL
4 380.1211. For taxes levied after December 31, 2007, for the
5 personal property tax component of an industrial facilities
6 exemption certificate for a new facility or a speculative building
7 that is sited on real property classified as commercial real
8 property under section 34c of the general property tax act, 1893 PA
9 206, MCL 211.34c, the amount of the industrial facility tax in each
10 year for a new facility or a speculative building shall be
11 determined by multiplying the taxable value of the facility
12 excluding the land and the inventory personal property by the sum
13 of 1/2 of the total mills levied as ad valorem taxes for that year
14 by all taxing units within which the facility is located other than
15 the number of mills from which the property is exempt under section
16 1211(1) of the revised school code, 1976 PA 451, MCL 380.1211.

17 (5) For a termination or revocation of only the real property
18 component, or only the personal property component, of an
19 industrial facilities exemption certificate as provided in this
20 act, the valuation and the tax determined using that valuation
21 shall be reduced proportionately to reflect the exclusion of the
22 component with respect to which the termination or revocation has
23 occurred.

24 Sec. 15. (1) Upon receipt of a request by certified mail to
25 the commission by the holder of an industrial facilities exemption
26 certificate requesting revocation of the certificate, the
27 commission shall by order revoke the certificate in whole or revoke

1 the certificate with respect to its real property component, or its
2 personal property component, whichever is requested.

3 (2) The legislative body of a local governmental unit may by
4 resolution request the commission to revoke the industrial
5 facilities exemption certificate of a facility upon the grounds
6 that, except as provided in section 7a, completion of the
7 replacement facility or new facility has not occurred within 2
8 years after the effective date of the certificate, unless a greater
9 time has been authorized by the commission for good cause; that the
10 replacement, restoration, or construction of the facility has not
11 occurred within 6 years after the date the initial industrial
12 facilities exemption certificate was issued as provided in section
13 7a, unless a greater time has been authorized by the commission for
14 good cause; that completion of the speculative building has not
15 occurred within 2 years after the date the certificate was issued
16 except as provided in section 7a, unless a greater time has been
17 authorized by the commission for good cause; that a speculative
18 building for which a certificate has been issued but is not yet
19 effective has been used as other than a manufacturing facility;
20 that the certificate issued for a speculative building has not
21 become effective within 2 years after the December 31 following the
22 date the certificate was issued; or that the purposes for which the
23 certificate was issued are not being fulfilled as a result of a
24 failure of the holder to proceed in good faith with the
25 replacement, restoration, or construction and operation of the
26 replacement facility or new facility, **OR WITH THE OPERATION OF AN**
27 **EXISTING FACILITY**, or with the use of the speculative building as a

1 manufacturing facility in a manner consistent with the purposes of
2 this act and in the absence of circumstances that are beyond the
3 control of the holder.

4 (3) Upon receipt of the resolution, the commission shall give
5 notice in writing by certified mail to the holder of the
6 certificate, to the local legislative body, to the assessor of the
7 assessing unit, and to the legislative body of each local taxing
8 unit which levies taxes upon property in the local governmental
9 unit in which the facility is located. The commission shall afford
10 to the holder of the certificate, the local legislative body, the
11 assessor, and a representative of the legislative body of each
12 taxing unit an opportunity for a hearing. The commission shall by
13 order revoke the certificate if the commission finds that
14 completion except as provided in section 7a of the replacement
15 facility or new facility has not occurred within 2 years after the
16 effective date of the certificate or a greater time as authorized
17 by the commission for good cause; that completion of the
18 speculative building has not occurred within 2 years after the date
19 the certificate was issued except as provided in section 7a, unless
20 a greater time has been authorized by the commission for good
21 cause; that a speculative building for which a certificate has been
22 issued but is not yet effective has been used as other than a
23 manufacturing facility; that the certificate issued for a
24 speculative building has not become effective within 2 years after
25 the December 31 following the date the certificate was issued; or
26 that the holder of the certificate has not proceeded in good faith
27 with the replacement, restoration, or construction and operation of

1 the facility or with the use of the speculative building as a
2 manufacturing facility in good faith in a manner consistent with
3 the purposes of this act and in the absence of circumstances that
4 are beyond the control of the holder.

5 (4) The order of the commission revoking the certificate shall
6 be effective on the December 31 next following the date of the
7 order and the commission shall send by certified mail copies of its
8 order of revocation to the holder of the certificate, to the local
9 legislative body, to the assessor of the assessing unit in which
10 the facility is located, and to the legislative body of each taxing
11 unit which levies taxes upon property in the local governmental
12 unit in which the facility is located.

13 (5) A revocation of a certificate issued for a speculative
14 building shall specify and apply only to that portion of the
15 speculative building for which the grounds for revocation relate.

16 (6) Notwithstanding any other provision of this act, upon the
17 written request of the holder of a revoked industrial facilities
18 exemption certificate to the local unit of government and the
19 commission or upon the application of a subsequent owner to the
20 local governing body to transfer the revoked industrial facilities
21 exemption certificate to a subsequent owner, and the submission to
22 the commission of a resolution of concurrence by the legislative
23 body of the local unit of government in which the facility is
24 located, and if the facility continues to qualify under this act,
25 the commission may reinstate a revoked industrial facilities
26 exemption certificate for the holder or a subsequent owner that has
27 applied for the transfer.

1 Sec. 16. (1) Unless earlier revoked as provided in section 15,
2 an industrial facilities exemption certificate shall remain in
3 force and effect for a period to be determined by the legislative
4 body of the local governmental unit and commencing with its
5 effective date and ending on the December 31 next following not
6 more than 12 years after the completion of the facility with
7 respect to both the real property component and the personal
8 property component of the facility **OR, FOR AN EXISTING FACILITY,**
9 **NOT MORE THAN 12 YEARS AFTER THE ISSUANCE OF THE CERTIFICATE FOR**
10 **THE EXISTING FACILITY.** The date of issuance of a certificate of
11 occupancy, if one is required, by appropriate municipal authority
12 shall be the date of completion of the facility.

13 (2) In the case of an application which was not filed within
14 12 months after the commencement of the restoration, replacement,
15 or construction of the facility but was filed within the succeeding
16 12-month period as provided in section 9(2)(a), the industrial
17 facilities exemption certificate, unless earlier revoked as
18 provided in section 15, shall remain in force and effect for a
19 period commencing with its effective date and ending on the
20 December 31 next following not more than 11 years after completion
21 of the facility with respect to both the real property component
22 and the personal property component of the facility. The date of
23 issuance of a certificate of occupancy, if one is required, by
24 appropriate municipal authority shall be the date of completion of
25 the facility. This subsection shall not apply for certificates
26 issued after December 31, 1983.

27 (3) In the case of an application filed pursuant to section

1 9(4), an industrial facilities exemption certificate, unless
2 earlier revoked as provided in section 15, shall remain in force
3 and effect for a period to be determined by the legislative body of
4 the local governmental unit and commencing on the effective date of
5 the certificate and ending on the December 31 next following not
6 more than 11 years after the effective date of the certificate.

7 Sec. 16a. If an industrial facilities exemption certificate
8 for a replacement facility, a new facility, **AN EXISTING FACILITY**,
9 or a speculative building becomes effective after December 31,
10 1995, for a period shorter than the maximum period permitted under
11 section 16, then both of the following apply:

12 (a) The owner or lessee of the replacement facility, new
13 facility, **EXISTING FACILITY**, or speculative building may, within
14 the final year in which the certificate is effective, within 12
15 months after the certificate expires, or, as permitted by the local
16 governmental unit, at any other time in which the certificate is in
17 effect apply for another certificate under this act. If the
18 legislative body of a local governmental unit disapproves an
19 application submitted under this subdivision, then the applicant
20 has no right of appeal of that decision as described in section 6.

21 (b) The legislative body of a local governmental unit shall
22 not approve applications for certificates the sum of whose periods
23 exceeds the maximum permitted under section 16 for the user or
24 lessee of a replacement facility, new facility, **EXISTING FACILITY**,
25 or speculative building.