

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 829

A bill to levy a specific tax on certain personal property; to provide for the administration, collection, and distribution of the specific tax; to provide for an exemption from that specific tax; to impose certain duties on persons and certain state departments; to impose penalties; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "state
2 essential services assessment act".

3 Sec. 3. As used in this act:

4 (a) "Acquisition cost" means the fair market value of personal
5 property at the time of acquisition by the current owner, including
6 the cost of freight, sales tax, and installation, and other

1 capitalized costs, except capitalized interest. There is a
2 rebuttable presumption that the acquisition price paid by the
3 current owner for personal property, and any costs of freight,
4 sales tax, and installation, and other capitalized costs, except
5 capitalized interest, reflect the fair market value of the personal
6 property. For property described in subdivision (e) (i) that would
7 otherwise be exempt under section 7k of the general property tax
8 act, 1893 PA 206, MCL 211.7k, and for property described in
9 subdivision (e) (iii), acquisition cost means 1/2 of the fair market
10 value of that personal property at the time of acquisition by the
11 current owner. The acquisition cost for personal property exempt
12 under the renaissance zone act, 1996 PA 376, MCL 125.2681 to
13 125.2696, is \$0.00 except for the 3 years immediately preceding the
14 expiration of the exemption of that personal property under the
15 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, during
16 which period of time the acquisition cost for that personal
17 property means the fair market value of that personal property at
18 the time of acquisition by the current owner multiplied by the
19 percentage reduction in the exemption as provided in section 9(3)
20 of the renaissance zone act, 1996 PA 376, MCL 125.2689. The state
21 tax commission may provide guidelines for circumstances in which
22 the actual acquisition price is not determinative of fair market
23 value and the basis of determining fair market value in those
24 circumstances, including when that property is idle, obsolete, or
25 surplus.

26 (b) "Assessment" means the state essential services assessment
27 levied under section 5.

1 (c) "Assessment year" means the year in which the state
2 essential services assessment levied under section 5 is due.

3 (d) "Eligible claimant" means a person that claims an
4 exemption for eligible personal property.

5 (e) "Eligible personal property" means all of the following:

6 (i) Personal property exempt under section 9m or 9n of the
7 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

8 (ii) Personal property exempt under section 9f of the general
9 property tax act, 1893 PA 206, MCL 211.9f, which exemption was
10 approved under section 9f of the general property tax act, 1893 PA
11 206, MCL 211.9f, after 2013, unless both of the following
12 conditions are satisfied:

13 (A) The application for the exemption was filed with the
14 eligible local assessing district or next Michigan development
15 corporation before August 5, 2014.

16 (B) The resolution approving the exemption states that the
17 project is expected to have total new personal property of over
18 \$25,000,000.00 within 5 years of the adoption of the resolution by
19 the eligible local assessing district or next Michigan development
20 corporation.

21 (iii) Personal property subject to an extended industrial
22 facilities exemption certificate under section 11a of 1974 PA 198,
23 MCL 207.561a.

24 (iv) Personal property subject to an extended exemption under
25 section 9f(8) of the general property tax act, 1893 PA 206, MCL
26 211.9f.

27 (f) "Fund board" means the board of directors of the Michigan

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1 strategic fund created under the Michigan strategic fund act, 1984
2 PA 270, MCL 125.2001 to 125.2094.

3 (g) "Michigan economic development corporation" means the
4 Michigan economic development corporation, the public body
5 corporate created under section 28 of article VII of the state
6 constitution of 1963 and the urban cooperation act of 1967, 1967
7 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal
8 agreement effective April 5, 1999, and subsequently amended,
9 between local participating economic development corporations
10 formed under the economic development corporations act, 1974 PA
11 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

12 (h) "Michigan strategic fund" means the Michigan strategic
13 fund created under the Michigan strategic fund act, 1984 PA 270,
14 MCL 125.2001 to 125.2094.

15 (i) "Next Michigan development corporation" means that term as
16 defined under the next Michigan development act, 2010 PA 275, MCL
17 125.2951 to 125.2959.

18 Sec. 5. (1) Beginning January 1, 2016, the state essential
19 services assessment is levied on all eligible personal property as
20 provided in this section.

21 (2) The assessment under this section is a state specific tax
22 on the eligible personal property owned by, leased to, or in the
23 possession of an eligible claimant on December 31 of the year
24 immediately preceding the assessment year and shall be calculated
25 as follows:

26 (a) For eligible personal property [acquired] by the eligible
27 claimant in a year 1 to 5 years before the assessment year,

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1 multiply the acquisition cost of the eligible personal property by
2 2.4 mills.

3 (b) For eligible personal property [acquired] by the eligible
4 claimant in a year 6 to 10 years before the assessment year,
5 multiply the acquisition cost of the eligible personal property by
6 1.25 mills.

7 (c) For eligible personal property [acquired] by the eligible
8 claimant in a year more than 10 years before the assessment year,
9 multiply the acquisition cost of the eligible personal property by
10 0.9 mills.

11 Sec. 7. (1) The department of treasury shall collect and
12 administer the assessment as provided in this section.

13 (2) Not later than May 1 in each assessment year, the
14 department of treasury shall make available in electronic form to
15 each eligible claimant a statement for calculation of the
16 assessment as provided in section 5.

17 (3) Not later than September 15 in each assessment year, each
18 eligible claimant shall submit electronically to the department of
19 treasury the completed statement and full payment of the assessment
20 levied under section 5 for that assessment year as calculated in
21 section 5(2). The department of treasury may waive or delay the
22 electronic filing requirement at its discretion. A statement
23 submitted by an eligible claimant shall include all of the eligible
24 claimant's eligible personal property located in this state subject
25 to the assessment levied under section 5 and, beginning in 2019,
26 specify the location of that property on December 31 of the year
27 immediately preceding the assessment year.

1 (4) If an eligible claimant does not submit the statement and
2 full payment of the assessment levied under section 5 by September
3 15, the department of treasury shall issue a notice to the eligible
4 claimant not later than October 15. The notice shall include a
5 statement explaining the consequences of nonpayment as set forth in
6 subsection (5) and instructing the eligible claimant of its
7 potential responsibility under subsection (5)(e). An eligible
8 claimant shall submit payment in full by November 1 of the
9 assessment year along with a penalty of 1% per week on the unpaid
10 balance for each week payment is not made in full up to a maximum
11 of 5% of the total amount due and unpaid. For the eligible
12 claimant's first assessment year, the penalty shall be waived if
13 the eligible claimant submits the statement and full payment of the
14 assessment levied under section 5 within 7 business days of
15 September 15.

16 (5) If an eligible claimant does not submit payment in full
17 and any penalty due under subsection (4) by November 1, all of the
18 following shall apply:

19 (a) The state tax commission shall direct the assessor to
20 rescind for the assessment year any exemption described in section
21 9m or 9n of the general property tax act, 1893 PA 206, MCL 211.9m
22 and 211.9n, granted for the eligible personal property.

23 (b) The state tax commission shall rescind for the assessment
24 year any exemption under section 9f of the general property tax
25 act, 1893 PA 206, MCL 211.9f, which exemption was approved under
26 section 9f of the general property tax act, 1893 PA 206, MCL
27 211.9f, after 2013.

1 (c) The state tax commission shall rescind for the assessment
2 year any exemption for eligible personal property subject to an
3 extended industrial facilities exemption certificate under section
4 11a of 1974 PA 198, MCL 207.561a.

5 (d) The state tax commission shall rescind for the assessment
6 year any extended exemption for eligible personal property under
7 section 9f(8)(a) of the general property tax act, 1893 PA 206, MCL
8 211.9f.

9 (e) The claimant shall file not later than November 10 a
10 statement under section 19 of the general property tax act, 1893 PA
11 206, MCL 211.19, for all property for which the exemption has been
12 rescinded under this section.

13 (f) All taxes due as a result of a rescission by the
14 department of treasury or by the state tax commission under
15 subdivisions (a) to (d) that were not billed under the general
16 property tax act, 1893 PA 206, MCL 211.1 to 211.155, or under 1974
17 PA 198, MCL 207.551 to 207.572, on the summer bill shall be billed
18 under the general property tax act, 1893 PA 206, MCL 211.1 to
19 211.155, or under 1974 PA 198, MCL 207.551 to 207.572, on the
20 winter tax bill.

21 (g) A person who files a statement under section 7 shall
22 provide access to the books and records relating to the
23 description; the date of purchase, lease, or acquisition; and the
24 purchase price, lease amount, or value of all industrial personal
25 property and commercial personal property owned by, leased by, or
26 in the possession of that person or a related entity if requested
27 by the assessor of the local tax collecting unit, county

1 equalization department, or department of treasury for the year in
2 which the statement is filed and the immediately preceding 3 years.

3 (6) An eligible claimant may appeal an assessment levied under
4 section 5 or a penalty or rescission under this section to the
5 state tax commission by filing a petition not later than December
6 31 in that tax year. The department of treasury may appeal to the
7 state tax commission by filing a petition for the current calendar
8 year and 3 immediately preceding calendar years. The state tax
9 commission shall decide any appeal based on the written petition
10 and the written recommendation of state tax commission staff and
11 any other relevant information. The department of treasury or any
12 eligible claimant may appeal the decision of the state tax
13 commission to the Michigan tax tribunal.

14 Sec. 9. (1) The fund board may adopt a resolution to exempt
15 from the assessment under this act eligible personal property
16 designated in the resolution as provided in this section and
17 described in subsection (3)(c) that is owned by, leased to, or in
18 the possession of an eligible claimant. In the resolution, the fund
19 board may determine that the eligible personal property designated
20 in the resolution shall be subject to the alternative state
21 essential services assessment under the alternative state essential
22 services assessment act. The resolution shall not be approved if
23 the state treasurer, or his or her designee to the fund board,
24 votes against the resolution.

25 (2) An exemption under this section is effective in the
26 assessment year immediately succeeding the year in which the fund
27 board adopts the resolution under subsection (1) and shall continue

1 in effect for a period specified in the resolution. A copy of the
2 resolution shall be filed with the state tax commission.

3 (3) The fund board shall provide for a detailed application,
4 approval, and compliance process published and available on the
5 fund's website. The detailed application, approval, and compliance
6 process shall, at a minimum, contain the following:

7 (a) An eligible claimant, or a next Michigan development
8 corporation on behalf of an eligible claimant, may apply for an
9 exemption to the assessment in a form and manner determined by the
10 fund board.

11 (b) After receipt of an application, the fund may enter into
12 an agreement with an eligible claimant if the eligible claimant
13 agrees to make certain investments of eligible personal property in
14 this state.

15 (c) An eligible claimant shall present a business plan or
16 demonstrate that a minimum of \$25,000,000.00 will be invested in
17 additional eligible personal property in this state during the
18 duration of the written agreement.

19 (d) The written agreement shall provide in a clear and concise
20 manner all of the conditions imposed, including specific time
21 frames, on the eligible claimant, to receive the exemption to the
22 assessment under this section.

23 (e) The written agreement shall provide that the exemption
24 under this section is revoked if the eligible claimant fails to
25 comply with the provisions of the written agreement.

26 (f) The written agreement shall provide for a repayment
27 provision on the exemption to the assessment if the eligible

1 claimant fails to comply with the provisions of the written
2 agreement.

3 (g) The written agreement shall provide for an audit provision
4 that requires the fund to verify that the specific time frames for
5 the investment have been met.

6 (4) The fund board shall consider the following criteria to
7 the extent reasonably applicable to the type of investment proposed
8 when approving an exemption to the assessment:

9 (a) Out-of-state competition.

10 (b) Net-positive return to this state.

11 (c) Level of investment made by the eligible claimant.

12 (d) Business diversification.

13 (e) Reuse of existing facilities.

14 (f) Near-term job creation or significant job retention as a
15 result of the investment made in eligible personal property.

16 (g) Strong links to Michigan suppliers.

17 (h) Whether the project is in a local unit of government that
18 contains an eligible distressed area as that term is defined in
19 section 11 of the state housing development authority act of 1966,
20 1966 PA 346, MCL 125.1411.

21 (5) The fund board, or the Michigan economic development
22 corporation, may charge actual and reasonable fees for costs
23 associated with administering the activities authorized under this
24 section.

25 Sec. 11. (1) Proceeds of the assessment collected under
26 section 7 shall be credited to the general fund.

27 (2) Beginning in fiscal year 2014-2015 and each fiscal year

1 thereafter, the legislature shall appropriate funds in an amount
2 equal to the necessary expenses incurred by the department of
3 treasury in implementing this act.

4 Enacting section 1. The local unit of government essential
5 services special assessment act, 2012 PA 406, MCL 123.1241 to
6 123.1247, is repealed.

7 Enacting section 2. This act does not take effect unless
8 Senate Bill No. 822 of the 97th Legislature is approved by a
9 majority of the qualified electors of this state voting on the
10 question at an election to be held on the August regular election
11 date in 2014.

12 Enacting section 3. The legislature declares that stable local
13 government funding and a tax system that allows individuals, small
14 businesses, and large businesses to thrive and create jobs in this
15 state are priorities of state government. The legislature also
16 declares that all state priorities should be considered in enacting
17 any legislation that has a fiscal impact and that any costs should
18 be managed in a fiscally responsible way. In furtherance of these
19 objectives, the legislature has reduced the state use tax under
20 section 3 of the use tax act, 1937 PA 94, MCL 205.93, and replaced
21 the portion reduced with a use tax levied by the local community
22 stabilization authority on behalf of local units of government
23 throughout this state to provide more stable funding for local
24 units of government than exists today. It is the intent of the
25 legislature to offset the fiscal impact on the state general fund
26 resulting from the reduction of the state use tax with new revenue
27 generated by the assessment levied under this act and with new

1 revenue resulting from the expiration of over \$630,000,000.00 in
2 expiring refundable tax credits that were awarded to individual
3 businesses under tax laws enacted by past legislatures.